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# Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue

April 2000

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The Office for Victims of Crime is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office of Juvenile Justice and Delinquency Prevention.

# Guidelines for Victim-Sensitive Victim-Offender Mediation:

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Restorative  
Justice Through  
Dialogue

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**April 2000**

Office for Victims of Crime  
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*Advocating for the Fair  
Treatment of Crime Victims*

NCJ 176346







## Message From the Director

This collection of six documents covers a number of important issues related to restorative justice. Four of the documents focus on victim-offender mediation, which is a major programmatic intervention that fully embraces the concepts of restorative justice. The first of these documents is the *Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue*, which assists administrators in developing or enhancing their restorative justice programs. It provides practical guidance for mediators to facilitate balanced and fair mediation, which will ensure the safety and integrity of all the participants. The *National Survey of Victim-Offender Mediation Programs in the United States* contains information about the characteristics of the various victim-offender mediation programs operating nationwide and the major issues facing them in their day-to-day operations. The *Survey* describes the actual functioning of the programs, while the *Guidelines* sets standards for the practice of victim-offender mediation. Next, the *Directory of Victim-Offender Mediation Programs in the United States* lists all identified victim-offender mediation programs in the country and provides their addresses, phone numbers, and contact and other basic information. The purpose of the *Directory* is to provide easy access for persons who would like to contact a given program. The *Family Group Conferencing: Implications for Crime Victims* document discusses a related form of restorative justice dialogue that originated in New Zealand and Australia and has been replicated in some communities in the United States. The *Multicultural Implications of Restorative Justice: Potential Pitfalls and Dangers* document informs practitioners about concerns regarding the implementation of such frameworks when working with persons of cross-cultural perspectives. The sixth document, entitled *Victim-Offender Mediation and Dialogue in Crimes of Severe Violence*, will be added to the collection late FY 2000. It will provide case study evidence suggesting that many of the principles of restorative justice can be applied to crimes of severe violence, including murder. In addition, this document includes a discussion about the need for advanced training for persons working with victims of severe violence.

The Office for Victims of Crime does not insist that every victim participate in victim-offender mediation, family group conferencing, or other restorative justice intervention. Such participation is a personal decision that each victim must make for herself or himself. We strongly advocate, however, that all restorative justice programs be extremely sensitive to the needs and concerns of the victims who would like to meet with their offenders. No pressure should be placed on victims to participate, for participation must be strictly voluntary. Victims should be granted a choice in the location, timing, and structure of the session and a right to end their participation at any stage in the process. These protections for victims do not mean that offenders can be treated insensitively. Both victim and offender must be dealt with respectfully.

We sincerely hope that restorative justice programs already in operation in probation or parole agencies, judicial agencies, religious groups, victim service organizations, community-based organizations, or elsewhere study these documents and embrace the victim-sensitive



guidelines that are relevant to their particular type of intervention. Restorative justice programs can only be strengthened by operating with heightened awareness of the needs of crime victims.

*Kathryn M. Turman*

Director

Office for Victims of Crime

## Acknowledgments

The Office for Victims of Crime (OVC) would like to offer special thanks to authors Mark S. Umbreit, Ph.D., Director, and Jean Greenwood, M.Div., former Training Coordinator, of the Center for Restorative Justice & Peacemaking (formerly the Center for Restorative Justice & Mediation), School of Social Work, University of Minnesota. We would also like to acknowledge the valuable contributions of review and commentary made by Carolyn McLeod, Coordinator of Victim-Offender Conferencing for Washington County Court Services in Minnesota; Marlene Young, Executive Director of the National Organization for Victim Assistance; and Ann Warner Roberts in her dual role as both the Community Outreach Director of the Center for Restorative Justice & Peacemaking, University of Minnesota School of Social Work, and a member of the Board of Directors of the Victim-Offender Mediation Association (VOMA).

We recognize the valuable contribution of other members of the Board of Directors of VOMA who played a critical role in providing input and the VOMA mailing list that was the foundation of the national survey of programs and the guidelines presented in this document. We also thank the many staff who took the time to participate in the Center's phone interviews about victim-offender mediation program and practices. In addition, we would like to acknowledge the valuable contribution made by Robert Schug, Administrative Aide at the Center for Restorative Justice & Peacemaking, who spent many hours preparing the document and responding to numerous requests for draft copies.

This project also benefited greatly from the contributions, guidance, and support of Susan Laurence, the Project Manager at OVC. This *Restorative Justice and Mediation Collection* is the result of the efforts of many individuals in the field who generously shared their materials and experiences with the Center for Restorative Justice & Peacemaking so that victims may be provided with additional options in the process of healing.







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## Executive Summary

The process of allowing interested crime victims to meet offenders in the presence of trained mediators now occurs in nearly 300 communities in the United States and more than 700 communities in Europe. When victim-offender mediation originated in Canada in 1974 and in the United States in 1978, there were only a handful of programs. With the growing interest in restorative justice and the rapid expansion of victim-offender mediation programs, it is important to gain a clear understanding of how the field is developing and becoming highly responsive and sensitive to the needs of crime victims. Every effort must be made to ensure that victims are not used simply as tools for offender rehabilitation, as they are in the dominant offender-driven juvenile and criminal justice systems. At the same time, the needs of offenders must also be considered.

This monograph presents specific criteria and recommendations to enhance the overall quality of victim-offender mediation programs and promote far more victim-sensitive practices in the field. The material presented is grounded in a yearlong assessment of the most current practices in the field, based on a nationwide survey. The material focuses on the practice of victim-offender mediation and dialogue regarding property crimes and minor assaults, the kinds of offenses typically addressed through mediation. A small but growing number of victims of severe violence are requesting to meet with their offenders. This is, however, an intensive and lengthy process that requires advanced training for the mediator. Fully addressing the multitude of issues related to working with severely violent victimizations such as sexual assault, attempted homicide, or murder is beyond the scope of this monograph.

The growing interest in victim-offender mediation arises from its capability to facilitate a real and understandable sense of justice for those most directly affected by crime: victims, victimized communities, and offenders. Victim-offender mediation breathes life into the emerging concept of restorative justice by asking, *who was harmed, how can the harm be addressed, and who is held accountable* for what happened. It seeks more balanced and effective juvenile and criminal justice systems that recognize the need to involve and serve victims and victimized communities. At the same time, it seeks to hold offenders more directly accountable to those they have harmed without overreliance upon costly incarceration.

Along with identifying specific recommendations for program development, the monograph sets forth guidelines for victim-sensitive victim-offender mediation. The guidelines address victim safety, screening of cases, the victim's and offender's choices, the mediator's obligations and responsibilities, victim and offender support, the use of victim-sensitive language, and training for mediators in victim sensitivity.







# **I. Victim-Offender Mediation: A National Perspective**

An increasing number of crime victims are choosing to meet face-to-face with the persons who victimized them. They are able to let the offenders know how the crime affected their lives, to receive answers to many lingering questions, and to be directly involved in holding offenders accountable for the harm they caused. Victim-offender mediation is recognized as a viable alternative to more traditional retributive response for serving victims' needs by probation, prosecuting attorneys, courts, correctional facilities, and communities. As the field of victim-offender mediation has grown extensively over the past 25 years, it has become increasingly important to conduct the process in a highly victim-sensitive manner while considering the needs of offenders.

Before addressing the underlying principles and guidelines of victim-offender mediation, a description of the mediation process follows.

## **What Is It?**

Victim-offender mediation (VOM) is a process that provides interested victims (primarily those of property crimes and minor assaults) the opportunity to meet their offenders in a safe and structured setting. The goal is to hold offenders directly accountable while providing important support and assistance to victims. With the assistance of trained mediators, the victims are able to let the offenders know how the crime affected them, receive answers to their questions,

and be directly involved in developing a restitution plan that holds the offenders financially accountable for the losses they caused. The offenders are directly responsible for their behavior and therefore must learn the full impact of what they did and develop a plan for making amends, to the degree possible, to the persons they violated. Offenders' failure to complete the restitution agreement results in further court-imposed consequences. Some VOM programs are called "victim-offender meetings," "victim-offender reconciliation," or "victim-offender conferences."

Victim-offender mediation is one of the clearest expressions of restorative justice, a movement that is receiving a great deal of attention throughout North America and Europe. Current juvenile and criminal justice systems are primarily offender-driven, with a retributive "trail 'em, nail 'em, and jail 'em" perspective that views crime as an offense against the State and offers little help to crime victims.

Restorative justice, however, provides a very different framework for understanding and responding to crime and victimization. Moving beyond the offender-driven focus, restorative justice identifies three clients: individual victims, victimized communities, and offenders. Crime is understood primarily as an offense against people within communities, as opposed to the more abstract legal definition of crime as a violation against the State. Those most directly affected by crime are allowed to play an active role in restoring peace between individuals and within communities. Restoration of the emotional and material losses resulting from crime is far more important than imposing ever-increasing levels of costly punishment on the offender. The debt owed by offenders is concrete. Rather than passively "taking their punishment," offenders are encouraged to actively



restore losses, to the degree possible, to victims and communities. The use of dialogue and negotiation among victims, victimized communities, and offenders is emphasized. In truth, the essence of what is being called restorative justice is deeply rooted in the traditional practices of many indigenous people throughout the world, such as American Indians, Pacific Islanders, the Maori in New Zealand, and First Nation people in Canada.

## **When Are Cases Referred?**

In some programs, cases are primarily referred to victim-offender mediation as a diversion from prosecution, assuming the mediation agreement is successfully completed. In other programs, cases are referred primarily after a formal admission of guilt has been accepted by the court, with the mediation being a condition of probation (if the victim is interested). Some programs receive case referrals at both the diversion and post-adjudication levels. Most cases are referred by officials involved in the juvenile justice system, although some programs also receive referrals from the adult criminal justice system. Judges, probation officers, victim advocates, prosecutors, defense attorneys, or police can make referrals to VOM programs.

The national survey of VOM programs that was conducted as part of this project found that, of the 116 programs that were interviewed (out of a total of 289 identified), 34 percent indicated that their primary referral was at a diversion level; 28 percent, at a post-adjudication but pre-disposition level; and 28 percent, at a post-disposition level of referral (appendix A).

## **How Is It Different From Other Kinds of Mediation?**

Mediation is being used in an increasing number of conflict situations, such as

divorce and child custody cases, community disputes, commercial disputes, and other civil court-related conflicts. In such settings, the parties are called “disputants,” and the assumption made is that both are contributing to the conflict and therefore both need to compromise to reach a settlement. Often, mediation in these cases focuses heavily upon reaching a settlement, with less emphasis upon discussing the full impact of the conflict on the disputants’ lives.

In victim-offender mediation, the involved parties are not “disputants.” Generally, one party has clearly committed a criminal offense and has admitted doing so, whereas the other has clearly been victimized. Therefore, the issue of guilt or innocence is not mediated. Nor is there an expectation that crime victims compromise or request less than what they need to restore their losses. Although many other types of mediation are largely “settlement-driven,” victim-offender mediation is primarily “dialogue-driven,” with emphasis upon victim empowerment, offender accountability, and restoration of losses. Most VOM sessions (more than 95 percent) result in a signed restitution agreement. This agreement, however, is secondary to the importance of the initial dialogue between the parties. This dialogue addresses emotional and informational needs of victims that are central to both the empowerment of the victims and the development of victim empathy in the offenders, which can help to prevent criminal behavior in the future. Research has consistently found that the restitution agreement is less important to crime victims than the opportunity to express their feelings about the offense directly to the offenders (Schneider, 1986). Restorative impact is strongly related to the creation of a safe place for dialogue between the crime victim and the offender.



Table 1 identifies key characteristics of victim-offender mediation that are likely

to result in the least and the most restorative impact.

**Table 1: Victim-Offender Mediation Continuum: From Least to Most Restorative Impact**

| <b>LEAST RESTORATIVE IMPACT</b><br>Agreement-Driven: Offender Focus  | <b>MOST RESTORATIVE IMPACT</b><br>Dialogue-Driven: Victim Sensitive   |
|--|---|
| <ul style="list-style-type: none"> <li>• Entire focus is upon determining the amount of financial restitution to be paid, with no opportunity to talk directly about the full impact of the crime upon the victims, the community, and the offenders</li> <li>• No separate preparation meetings are conducted with the victims and offenders prior to bringing them together</li> <li>• Victims are not given a choice of where they would feel the most comfortable and safe to meet or of whom they would like to have present</li> <li>• Victims are given only written notice to appear for a mediation session at a preset time, with no preparation.</li> <li>• The mediators or facilitators describe the offense and then the offenders speak, with the victims simply asking a few questions or responding to questions from the mediator</li> <li>• A highly directive style of facilitation is conducted with mediators talking most of the time, continually asking both victims and offenders questions, with little if any direct dialogue between the involved parties</li> <li>• The session is marked by low tolerance of moments of silence or expressions of feelings</li> <li>• The mediation session is voluntary for victims but required of offenders whether or not they take responsibility.</li> <li>• The mediation is settlement-driven and very brief (10–15 minutes)</li> </ul> | <ul style="list-style-type: none"> <li>• Primary points of focus are to provide an opportunity for victims and offenders to talk directly to each other, to allow victims to express the full impact of the crime upon their lives and receive answers to important questions they have, and to allow offenders to understand the real human impact of their behavior and take direct responsibility for seeking to make things right</li> <li>• Restitution is important but secondary to the dialogue about the impact of the crime</li> <li>• Victims are continually given choices throughout the process where to meet, who should be present, etc</li> <li>• Separate preparation meetings are conducted with victims and offenders prior to bringing them together, with emphasis upon listening to how the crime has affected them, identifying their needs, and preparing them for the mediation or conference session</li> <li>• A nondirective style of facilitation is fostered with the parties talking most of the time. The mediation incorporates a high tolerance of silence and the use of a humanistic or transforming mediation model (see appendix B)</li> <li>• The mediation is marked by high tolerance for expressions of feelings and of the full impact of crime</li> <li>• Mediation is voluntary for both victims and offenders</li> <li>• Trained community volunteers serve as mediators or comediators along with agency staff</li> <li>• The mediation session is dialogue-driven and typically about an hour (or longer) in length</li> </ul> |

## **Are Crime Victims Interested?**

Interest in victim-offender mediation spread in the late 1970s, and local funding began supporting the development of new programs across the country. A recent statewide public opinion poll in Minnesota found that 82 percent of a random sample of citizens throughout the State would consider participating in a VOM program if they were victims of property crimes. Interviews with 280 victims who participated in VOM programs in 4 States found that 91 percent felt their participation was totally voluntary. For those victims in the comparison group for this study—namely, those who did not participate in mediation—70 percent would have preferred to meet the offender had they been given the choice. Victim-offender mediation is not appropriate for all crimes. In all cases, it must be presented as a choice to the victim.

## **How Many Programs Exist?**

A national survey of the field found 289 VOM programs throughout the United States as of 1998. Today, a more accurate estimation would be in excess of 300. Telephone interviews with 116 of the programs revealed that 42 percent of the programs were run by community-based agencies, 23 percent were church-based programs, 17 percent were sponsored by probation and correctional departments, 3 percent were based in victim services agencies, 4 percent were operated by prosecuting attorney's offices, and 11 percent were managed by other types of agencies. Programs most frequently identified their primary source of funding as local, State, or Federal Government. Foundations were the fourth most frequent source of funding. Of those programs answering the question, 46 programs (45 percent) work only with juvenile offenders and their victims,

9 programs (9 percent) work only with adult offenders and their victims, and 48 programs (46 percent) work with both. The vast majority of cases handled by the programs are property offenses and minor assaults. A number of the more experienced programs, however, periodically work with more violent cases.

After 20 years of development and many thousands of cases (primarily property crimes and minor assaults) in more than 1,000 communities throughout North America (more than 300) and Europe (more than 700), victim-offender mediation is finally beginning to move toward the center of criminal and juvenile justice systems (table 2). Some programs are still small, with a very limited number of case referrals. Many other programs are receiving several hundred referrals per year. A few programs have recently been asked to divert 1,000 or more cases each year from the court system, and county governments have provided hundreds of thousands of dollars to fund these VOM programs.

It is clear that the field of VOM has grown extensively since the first Victim-Offender Reconciliation Project was initiated in Kitchener, Ontario, Canada, in 1974, and replicated in the United States in Elkart, Indiana, in 1978. Perhaps the clearest expression of how the field has continued to develop is the recognition it received in 1994 when the American Bar Association (ABA) endorsed the practice of victim-offender mediation. After many years of supporting civil court mediation, with limited interest in criminal mediation, the ABA now endorses the process and recommends the use of "victim-offender mediation and dialogue" in courts throughout the United States. Similarly, a recent statewide survey of victim service providers in Minnesota found that 91 percent believed that victim-offender mediation should be available in every judicial district since it represents an important service option for crime victims.



**Table 2: International Development of Victim-Offender Mediation Programs**

| Country       | Number                         |
|---------------|--------------------------------|
| Australia     | 5                              |
| Austria       | 17                             |
| Belgium       | 31                             |
| Canada        | 26                             |
| Denmark       | 5                              |
| England       | 43                             |
| Finland       | 1                              |
| France        | 73                             |
| Germany       | 44                             |
| Italy         | 4                              |
| New Zealand   | Available in all jurisdictions |
| Norway        | 44                             |
| Scotland      | 2                              |
| South Africa  | 1                              |
| Sweden        | 10                             |
| United States | 289                            |

## What Have We Learned From Research?

While a continuing need for more research in this field remains, far more empirical data exist on this option than one might find on many other correctional justice interventions. During the past several years, a small but growing body of empirical data has emerged from multisite assessments in Canada, England, and the United States. Studies conducted over the past 12 years throughout Europe and North America report high levels of satisfaction with the mediation process and outcome on the part of victims and offenders (Coates and Gehm, 1989; Collins, 1984; Dignan, 1990; Fischer and Jeune, 1987; Galaway, 1988; Galaway and Hudson, 1996; Gehm, 1990; Marshall and Merry, 1990; Perry, Lajeunesse, and Woods, 1987; Umbreit,

1989, 1991, 1993a, 1993b, 1994a, 1994b, 1995a, 1995b; Umbreit and Coates, 1993; and Wright and Galaway, 1989). Some studies found higher restitution completion rates (Umbreit, 1994a and 1994b), reduced fear among victims (Umbreit and Coates, 1993; and Umbreit, 1994a and 1994b), and reduced further criminal behavior (Nugent and Paddock, 1995; Schneider, 1986; and Umbreit, 1994a and 1994b). Multisite studies in England (Marshall and Merry, 1990; and Umbreit and Roberts, 1996), the United States (Coates and Gehm, 1989; and Umbreit, 1994a and 1994b), and Canada (Umbreit, 1995a and 1995b) have confirmed most of these findings. A large multisite study in the United States (Umbreit, 1994a and 1994b) found that victims of crime who meet with their offenders are far more likely to be satisfied with the criminal justice system response to their cases than victims of similar offenses who go through the conventional criminal court process.

It is becoming increasingly clear that the victim-offender mediation process can serve to humanize the criminal justice experience for both the victim and the offender. It holds offenders directly accountable to the people they have victimized, allows for more active involvement of crime victims and community members (as volunteer mediators and support persons) in the justice process, and reduces further criminal behavior of offenders. During the early 1980s, many questioned whether crime victims would want to meet face-to-face with their offender. Today it is clear, from empirical data and experience, that the majority of crime victims who are presented with the opportunity for mediation and dialogue choose to engage in the process, with victim participation rates in many programs ranging from 60 to 70 percent.





## **II. Guidelines for Victim-Sensitive Mediation and Dialogue With Offenders**

As the field of victim-offender mediation continues to develop throughout the United States, it becomes increasingly important that the mediation process be conducted in the most victim-sensitive manner possible while addressing important needs of the offender. This section offers a number of very specific guidelines and recommendations to strengthen victim-sensitive mediation practices.

### **Purpose of Victim-Offender Mediation**

The purpose of victim-offender mediation and dialogue is to provide a restorative conflict resolution process that actively involves victims and offenders in repairing (to the degree possible) the emotional and material harm caused by the crime; an opportunity for both victims and offenders to discuss offenses and express their feelings and for victims to get answers to their questions; and an opportunity for victims and offenders to develop mutually acceptable restitution plans that address the harm caused by the crime.

### **Underlying Principles of Victim-Offender Mediation**

1. Human beings possess inner resources that, under the right circumstances, can be accessed and used to address issues and resolve problems of importance to them.
2. Appropriate structure (including a neutral third-party facilitator, procedural guidelines, and a seating plan) can neutralize differences in status and power and provide an environment conducive to meaningful dialogue, even in emotionally intense contexts.
3. The use of specific techniques and strategies by the mediator must serve the larger goal of creating a safe, comfortable environment in which a mediated dialogue can occur.
4. The “personal” element is powerful: stories of individual experience can evoke empathy, insight, and understanding. Telling and hearing these stories can be empowering, validating, and transforming for both the speaker and the listener.
5. The mediator’s presence plays an important role in facilitating an open dialogue in which the parties are actively engaged and doing most of the talking. This “presence” is established through the mediator’s verbal and nonverbal communication, tone of voice, straightforwardness, expression of empathy, and genuine concern for each party.
6. Presenting choices to the parties whenever possible (when to meet, where to meet, etc.) maximizes opportunities for them to feel empowered by the process.
7. The mediator’s role is critical in a successful mediation. It is important for mediators “to get out of the way” and encourage conversation between victims and offenders. Mediators should be cautious about intervening too frequently.
8. The mediation process may be adapted to meet the needs of the participating parties so that they feel safe and comfortable to engage in an

open dialogue. Continual attention must be paid to differences in communication style that can distort meaning.

9. Discovering underlying needs and interests can enhance a collaborative effort and provide more satisfying results.
10. Well-written agreements guide and focus behavior, thereby enhancing results. A written agreement, however, is secondary in importance to the dialogue between the victim and the offender about the crime itself and its impact on their lives. Some mediated dialogue sessions may satisfy the needs of the parties without resulting in a written agreement.

## **Guidelines for Victim-Sensitive Mediation**

### **1. Victim Safety**

A fundamental guideline for VOM programs is protecting the safety of the victim. The mediator must do everything possible to ensure that the victim will not be harmed. At every point in the mediation process, the mediator must ask, "Does this pose a threat to the safety and well-being of the victim?" It is essential that the mediator maintain rapport, study verbal and nonverbal communication, and request feedback from the victim as the process unfolds. If the victim feels unsafe, the mediator must be prepared to act immediately, to provide options, to terminate a mediation session, and to provide an escort for the victim leaving mediation.

To ensure the safety of the victim, the mediation should be conducted in a location that the victim considers safe, and the victim should be encouraged to bring along a support person or two. The mediator may also wish to bring in another mediator to comediate the session. In

addition, the victim may find it reassuring to have input on the arrangement of the room and the seating of the parties and to have the freedom to be introduced in the manner he or she chooses, such as using only first names.

An important safeguard for victims is knowing that the VOM program has credibility. That credibility needs to be reinforced in writing, with an informative letter of introduction and a program brochure. Victims may also need reassurance that the program is not focused on the offender. In programs using volunteers, victims need to be assured that staff work closely with volunteers, that victims may contact staff if they have questions or concerns, and that referrals are screened by staff with safety issues in mind. Programs should consider having a victim advisory council consisting of crime victims and service providers to give guidance in policy and program development and implementation and to serve as a liaison to the victim-serving community.

### **2. Careful Screening of Cases**

Each mediation program should have its own criteria for case selection, such as type of offense, age of offender (juvenile or adult), first-time offense, or multiple offenses. In addition to program criteria, staff or mediators or both should exercise discretion as each case is developed and at each step in the process, asking themselves if this case is suited for and should proceed to mediation.

For mediation to be meaningful, offenders must take responsibility for their participation in the crime and proceed willingly. If a mediator has any doubts about moving ahead with the process, he or she should talk with the victim to explain the situation, share information about the offender (with the offender's permission), and inquire about the victim's desire to proceed. A victim may choose to proceed



even if the offender is inarticulate or less than remorseful—simply because he or she wishes to be heard—or a victim may decide not to participate in mediation in such a situation.

It is also important that mediators consider the readiness of both parties to participate in mediation, noting in particular victims' ability to represent their own interests and express their needs.

### **3. Meeting First With the Offender**

A mediator usually meets first with the offender, prior to contacting the victim. Then, if the offender is willing to participate in mediation, the victim can be contacted and a meeting can be arranged. If the mediator meets first with a victim, gains his or her consent to participate in mediation, and later discovers that the offender will not participate, the victim may feel revictimized—having raised hopes for some resolution to the crime, only to be denied that opportunity. If, however, contacting the offender results in a significant delay of mediation, the mediator needs to talk to the victim about the situation, explaining the importance of voluntary participation on the part of the offender.

### **4. Offender's Choice To Participate**

It is important that offenders participate voluntarily in all stages of the mediation process. Even when the court system pressures them to participate, offenders must understand that they may, in fact, decline. If offenders are forced to mediate, victims may experience the mediation as unsatisfactory and even harmful. The offender's unwillingness or insincerity may constitute an additional offense in the eyes of the victim.

### **5. Victim's Choices**

Following a crime, a victim often feels vulnerable and powerless. Added to that

is the victim's experiences with the criminal or juvenile justice system, which focuses on the offender. The victim is excluded from the process, rarely being offered an opportunity to tell his or her experiences, define the resulting harm, or express needs. It is not surprising that in the wake of a crime, a victim often expresses a lack of control in his or her life that can intensify fears and anxieties. The presence of choices and options for the victim in the mediation process can contribute to a sense of power. Empowerment is conducive to healing, the ability to move beyond difficult and painful experiences or integrate them into one's life. The mediator provides information and support for the victim engaged in decisionmaking but is careful not to apply pressure or impose expectations on the victim. The victim must be given sufficient time to make decisions, without the pressure of arbitrary time constraints. Choices should continually be presented to the victim throughout the mediation process as several decisions need to be made, including the following:

**Participation.** The victim must always have the right to say "no" to mediation, to refuse to participate, and to have that decision honored and respected. The victim did not choose to be a victim of a crime. It is crucial then that the victim experiences the power of choice about participating in the mediation process. The victim must always be invited to participate and must be educated about this option, but never pressured. The mediator should give accurate information about mediation, describing the process itself, the range of responses from victims who have participated in mediation, and research findings on client satisfaction. The mediator then should encourage the victim to consider the possible benefits and risks of mediation before deciding to proceed. The victim may also wish to consult with a trusted friend, relative,



clergy person, or victim advocate before making a final decision. It is essential that the victim's participation is based on "informed consent."

**Support.** Another important option for the victim is the choice of support persons to accompany him or her to the mediation session. The presence of a friend or relative can enhance the victim's sense of comfort and safety, even though the support person typically has little or no speaking role. It is helpful for the mediator to meet or telephone support persons to prepare them for the mediation session.

**Schedule for mediation session.** The mediation session should be scheduled at a time that is convenient for the victim. The victim's schedule needs to be a priority so that the victim can feel a sense of control in the situation and find comfort in the deference extended. At the same time the needs of others should not be ignored.

**Mediation site.** Site selection is an important aspect of the mediation process. The victim needs to know the locations available (e.g., private room in a community center, library, religious building, office building, city hall) and be asked which he or she prefers. Which setting would feel safe, neutral, comfortable, and convenient? Occasionally, a victim chooses a more personal setting, for example, a home or an institution such as the detention center at which the offender is being held. The victim should consider the advantages and disadvantages of particular settings. The final decision, however, should be the victim's.

**Seating.** Generally, the parties are seated across from each other, allowing them to establish direct eye contact as their dialogue develops. The use of a table may increase the victim's sense of safety and maintain decorum. Mediators then are typically seated at the ends of the table,

while support persons sit off to the side of each party. This arrangement, or a variation of it, is generally thought to be effective. If, however, the victim finds it uncomfortable, his or her wishes should be given serious consideration. Occasionally, a victim chooses to sit closest to the door or at a greater distance from the offender or request that support persons sit on the other side of the table, thus making them more visible to the victim. Various cultural traditions may also suggest a different arrangement. Whatever the seating, it should be conducive to dialogue and comfortable for all parties. A victim's sense of security should be a priority in determining the seating arrangement.

**First speaker.** The victim should have the opportunity to choose whether to speak first during the initial narrative portion of the mediation session or whether to speak last. This choice is given out of deference to his or her position as the victim of crime—a position the criminal and juvenile justice systems frequently ignore once the complaint has been filed. Often a victim finds it empowering to begin by defining the harm—telling the offender first what was experienced and how it has affected him or her. At times, however, a victim feels "put on the spot" and requests that the offender speak first, initiating the session and accepting responsibility for the crime. A victim sometimes finds it validating, and often healing, to hear an offender offer words of regret or remorse that have not been elicited by the victim's story. The mediator must make sure, however, that whatever the order, both parties' complete stories are heard—that, for example, the victim's emotional content is not compromised by any remorse the offender may express, and that the offender, particularly if the offender is a juvenile, does not retreat into silence in the face of the victim's emotional intensity.



In selecting who should speak first, the mediator may have to decide based on the ages, needs, and communication styles of both parties. When the mediator chooses who will initiate the conversation in a particular case, it is important that he or she discuss the decision and the rationale privately with both parties prior to the mediation session. Creating a safe place where both parties feel comfortable enough to engage in an open dialogue to the extent of their ability is ultimately the most important principle, regardless of who speaks first.

**Termination of session.** An extension of the victim's choice to participate in mediation is the right to end the process at any point. The victim should be informed that mediation remains a voluntary process to the end. If the victim feels uncomfortable or unsafe, the mediator should consult first with both parties and then conclude the mediation session temporarily or terminate the process entirely.

**Restitution.** A victim has the right to select the restitution option that best meets his or her needs. In addition to reimbursement of out-of-pocket expenses, a victim may request that the offender undertake community service (a public service of the victim's choice), perform personal service for the victim, write a letter of apology, participate in treatment or other programs to improve his or her competence, or complete some other creative assignment. Although the final restitution plan will be negotiated with the offender, the victim must understand that he or she can request a particular compensation, within legal limits.

## **6. Mediator's Obligations During the In-Person Premediation Session With the Victim**

The mediator visits face-to-face with the victim at a convenient time and place. The mediator usually offers to come to

the victim's home or to an alternative location if the victim prefers another setting. The purpose of the visit is to establish credibility and rapport with the victim and to accomplish the following tasks: to listen to the victim's stories, to provide information and answer questions, and to assist the victim in considering mediation as an option. During the initial visit, the mediator should ask whether the victim would rather begin by telling his or her story or whether he or she would prefer to learn first about the mediation program.

**Listen.** A critical task for the mediator is to attend to the victim, listening carefully, patiently, and sympathetically out of a genuine desire to hear about the victim's experience. Effective listening by the mediator gives the victim a chance to vent and validate his or her feelings. The mediator's attentive listening encourages the victim's trust and lets the victim know that he or she is a priority. Occasional informal paraphrasing or summarizing by the mediator assures the victim that the mediator is indeed paying attention and values what is being said.

### **Provide information and answer questions about—**

**The mediation program:** The mediator needs to give the victim thorough and accurate information about the program itself (both orally and in writing) including its goals, history, the population it serves, and any costs for participants who might be involved. (Note: It should always be free for victims.)

**Oneself as mediator:** Mediators should offer a few brief words about their mediation training and experience and about themselves personally, as appropriate. Giving information about oneself helps to build rapport and trust with the victim.

**The mediation process and its purpose:** The victim also needs to know, in some detail, what happens in the mediation process, the role of participants, and its overall purposes.

**The judicial system:** Victims typically want to know what has happened so far to the offenders and what might occur if they proceed with mediation or if they decline. The limitations of the judicial system should also be addressed. A mediator needs to be attentive to questions that may arise, even after the mediation session.

**Victim's rights:** A victim should be given a summary of the rights granted to victims in that State. Summaries are available from most of the thousands of system and community-based victim service organizations in large and small communities across America.

**Available resources:** A mediator must be attentive to the victim's needs and should contact staff, offer resources, or make referrals as requested to local, State, and national organizations or agencies. A mediator should check out the agencies to which referrals are made or make personal followup calls to ensure that the victim's needs are met.

**The offender:** As a victim begins to consider mediation, he or she may find it helpful to know something about the offender's state of mind and circumstances. Mediators must get the offender's permission before sharing this kind of information.

**Discuss risks and benefits and assist victims in decisionmaking.** After providing the essential information about victim-offender mediation, the mediator needs to assist the victim in considering the risks and benefits of mediation in his or her particular situation.

## **7. Mediator's Responsibilities for Carefully Preparing the Victim**

After a victim has decided to proceed with mediation, the mediator needs to prepare the victim for what lies ahead. This can be done in the initial meeting or in additional sessions. It is important that the mediation session not be scheduled until the victim feels ready for it. It is also important that the mediator try to accommodate any special needs, such as the need for interpreters or needs related to physical handicaps or mental limitations.

**Ensure victim's expectations are realistic.** A victim may develop inflated expectations of the mediation process (e.g., reconciliation with the offender, complete healing or peace of mind, rehabilitation of the offender, or total repair of the damage done). Although very positive outcomes are generally experienced by both the victim and the offender, they cannot be guaranteed. The mediator needs to be realistic with the victim, providing accurate information about possible outcomes and the kinds of results that are most typical, with strong caution that each mediation is unique (just as each victim is unique) and cannot be predicted.

**Assess losses and needs.** Victims may appreciate assistance in identifying losses experienced in the crime and current needs related to the crime. These can include material and out-of-pocket monetary losses as well as less tangible losses affecting their sense of safety and feelings of connection with their community.

**Estimate restitution possibilities.** A mediator should engage the victim in preliminary brainstorming about the ways losses and needs might be addressed—what it would take to repair the harm done. This process is intended to spark the victim's ideas about possibilities for restitution that may or may not be



monetary. This groundwork must be laid before the mediation so that, during the actual negotiation process, the victim has a solid base of ideas to draw from to make the most suitable proposal. Victims, primarily those of violent crimes, should also be informed of State victim compensation, assistance, or other public funds dedicated to reimbursing victim losses.

## **8. Offender Support**

An offender may choose to have a friend or relative accompany him or her to the mediation session. The presence of support persons can reinforce the seriousness of the mediation process. In addition, these supporters may in the future serve as reminders to the offender of the commitments made and as “coaches” who can encourage the offender to fulfill the agreement. Creating a comfortable environment for the offender also makes for a better mediation that benefits the victim, offender, community, and the justice system.

## **9. Mediator's Obligation During the In-Person Premediation Session With the Offender**

In the initial meeting with the offender, the mediator seeks to establish credibility and rapport. To accomplish these tasks, the mediator needs to hear the offender's experiences, offer information and answer questions about the process, and assist the offender in considering mediation as an option. As described in guideline number 6, the mediator, as attentive listener, gains an understanding of the offender's experiences and feelings relative to the crime, provides information, and responds to the offender's questions. The offender needs to know about the mediation program and the mediator, the process itself and its relationship to the judicial system, his or her rights, and available resources. The offender may also have questions about the victim. The mediator must have the victim's

permission before reporting what he or she has said. Using all available relevant information, the mediator assists the offender in deciding whether to participate in mediation. It is important that each offender considers the risks and benefits of the process in his or her particular situation. Having a well-informed, willing offender increases the chances that the mediation session will be beneficial for all parties involved.

## **10. Mediator's Responsibilities for Carefully Preparing the Offender**

After the offender has decided to participate in mediation, the mediator needs to prepare him or her for the session. The offender must feel ready to proceed before the mediation session is scheduled. He or she needs a chance to reflect on the crime and feelings about it, as well as an opportunity to organize what he or she wishes to say to the victim. To help the offender try to understand the victim's experience, the mediator may invite the offender to recall experiences of being victimized and then ask him or her to consider what the actual victim might be feeling or might want. These reflections should be within the context that any past victimization the offender may have experienced in no way excuses the choices he or she later made to hurt another person. The mediator may ask the offender what he or she would like to do for the victim. It is also important that the mediator try to accommodate interpreters or any special needs related to physical disabilities or mental limitations.

**Ensure offender's expectations are realistic.** Offenders may need assistance in maintaining realistic expectations of mediation. An offender may expect that an apology automatically diffuses the intensity of the victim's emotions or that one mediation session erases the harm caused by the crime. The offender's disappointment if such expectations are not



met can be detrimental to the victim, who may experience guilt or anger as a result. In any case, an apology has no meaning without true remorse.

**Assess victim's losses and restitution possibilities and offender's ability to fulfill agreements.** Mediators should assist offenders in thinking about the needs and the losses victims might have experienced, both tangible and intangible, and then engage offenders in preliminary brainstorming about the ways those needs and losses might be addressed, such as what it would take to repair the harm done. Mediators should discuss with offenders what resources might be used in addressing the losses, including present income, income that can be generated by taking additional jobs, and the types of services that he or she can offer to the victim. Offenders should be encouraged to continue thinking of restitution ideas and resources in preparation for the mediation session.

## **11. Use of Victim-Sensitive Language**

Mediators must be careful in their use of language. Certain words and phrases can imply judgment or convey expectation. For example, if a mediator says or implies "you should" to either party, then neutrality is lost, rapport and credibility may be damaged, and a victim may feel pressured and experience a diminished sense of control. The mediator must provide information, present the options, and encourage the victim to make the best decision. Most people are accustomed to seeing professionals or trained volunteers as experts with answers; in contrast, mediators must be vigilant in guarding the choices—and thus the autonomy—of both parties.

It is also important that mediators avoid the use of words such as "forgiveness" or "reconciliation." Again, such words

pressure and prescribe behavior for victims. In addition, mediators should try to avoid raising expectations that cannot be fulfilled in a particular case. For example, using words such as "healing," "restoration," and "being made whole" to describe possible outcomes for mediation may elevate victims' hopes unrealistically. In the case of "reconciliation," many victims find this word hurtful because it implies there was a conciliatory relationship in the first place. Some victims may experience a degree of reconciliation, but this must occur spontaneously, without a directive from the mediator. In fact, it is more likely to occur if the mediator avoids directives. Forgiveness also may be expressed during the mediation session, but the mediator's use of the word "forgiveness" may be destructive to the victim. Victims may, for example, feel guilty if they fail to feel forgiving. They may resent the suggestion and shut down to the point that they miss the opportunity to truly express how the crime has affected them, which is typically a component of healing.

## **12. Use of Humanistic/Dialogue-Driven Model of Mediation**

The mediation session itself is guided by a humanistic approach that is "dialogue-driven" rather than "settlement-driven," which includes the following topics (see appendix B, What Is Humanistic Mediation?):

**Perspective of the mediator.** Through a nonjudgmental attitude and a positive, hopeful demeanor, the mediator conveys his or her trustworthiness and sensitivity to the needs of both parties.

**Relaxed, positive atmosphere.** The mediator needs to put the parties as much at ease as possible, renew the connections developed in previous separate meetings, and establish an informal yet dignified atmosphere that is conducive



to dialogue and constructive problem solving and is of mutual benefit. The mediator should present a calm, centered manner and should not dominate the conversation.

**Dialogue between victim and offender.**

As the mediation session proceeds, time must be allowed for interaction between victim and offender and for personal narratives. Silence must be honored. Time pressures or a focus on reaching agreement can detract from the benefits of dialogue, questions, and answers.

**Procedural guidelines.** During the initial meeting with each participant and at the beginning of the mediation session, the mediator must discuss the procedural guidelines that shape the process. These guidelines help to establish a safe, structured setting, encourage respectful conversation that acknowledges concerns of each party, and elicit the strengths of the participants. Each party is assured the opportunity to speak without interruption. The mediator, who assumes a nondirective role, guards the process.

**Feedback from participants.** The mediator needs to maintain attentiveness to the parties, watching for nonverbal cues and perceiving unacknowledged feelings, as well as directly requesting feedback and consulting in private with each party as needed to get further information. The mediator should talk with each party before and after the mediation session to maximize feedback.

**Option of followup session.** The mediator needs to mention the possibility of an additional session. Some parties find it useful to meet again, for example, to conclude the conversation, allowing for additional thoughts, feelings, or questions to arise; to negotiate further details regarding restitution; or to acknowledge fulfillment of the agreement.

### **13. Followup After the Mediation Session**

It is vital that the mediator follow through on commitments and questions raised in the mediation session. The dependability of the mediator is of utmost importance to victims and offenders.

**Completion of agreement.** The agreement that is the product of the mediation session needs to be carefully monitored. The mediator should check with the offender periodically to reinforce what was accomplished in the mediation session and to assist with any problems that may interfere with the offender fulfilling the agreement.

**Notification of victim regarding status of the agreement.** The victim should be notified when the agreement has been fulfilled or if circumstances have changed that may suggest alterations in the agreement.

**Scheduling additional sessions if needed.** If another meeting is desired by either the victim or the offender, the mediator should contact the parties and negotiate an additional session.

**Telephone contact with parties.** The mediator should maintain telephone contact with both parties for a period of time following the mediation session, whether the agreement has already been completed or not. A brief check-in may be all that is required. The mediator can serve as a continuing source of information and referral. If the case is not mediated, it may be beneficial, nonetheless, for the mediator or victim support staff to maintain telephone contact with the victim for a period of up to 6 months. Some mediators have found that monthly written progress reports are more meaningful to victims than telephone calls.

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**Evaluation.** VOM programs should establish procedures for evaluation of all mediations. Victims and offenders need to be surveyed to ascertain their satisfaction with the mediation process and its outcome.

#### **14. Training for Mediators in Victim Sensitivity**

The initial training and continuing education of mediators should include information on the experiences of victims of crime, referral sources, appropriate communication skills for mediators, victim's and offender's rights, and guidelines for victim-sensitive mediation. Trainees need to hear from victim advocates and victims themselves.



### III. Recommendations for Program Development

#### Program Recommendations

##### 1. Create an Advisory Board

An advisory board can contribute significantly to the effectiveness of a victim-offender mediation program. Its role may be consultative, without decisionmaking authority. The board can assist in developing the program, maintaining quality in program procedures and practices, fundraising, and building support for the program within the judicial system and local community.

The composition of the advisory board may vary, depending on the context and the needs of the program. The board may include the following members:

- ◆ A victim who has participated in victim-offender mediation.
- ◆ An offender who has participated in victim-offender mediation.
- ◆ Youth from the community.
- ◆ Representatives from the judiciary or court administration.
- ◆ Representatives from probation or parole.
- ◆ Police officers or diversion workers.
- ◆ Representatives from victim services.
- ◆ Social workers or counselors.
- ◆ Health care workers.
- ◆ Other community representatives from the media, schools, and religious groups.

##### 2. Ensure Quality Control Through Program Evaluation

Procedures for program evaluation need to be established from the outset to ensure quality control. Evaluations provide the program staff with general feedback relative to the mediation process itself and the effectiveness of program procedures. Evaluations also offer information about specific cases and the competence of specific mediators. As a result, staff may suggest further training or consultation for specific mediators or followup work with the participants in a particular case. Evaluations should be gathered from participants, mediator, and probation officer or victim service personnel.

**Participants.** In general, evaluations should be anonymous to encourage honest responses. A coding system can be used, so that staff can identify the particular case and mediator involved.

One model for participant evaluation has two phases. During the first phase, information is gathered at the time of the mediation session. A simple evaluation form is distributed to all participants, including parents of juvenile offenders who might be present, with a self-addressed, stamped envelope. The participants are asked to complete the evaluation as soon as possible and mail it back, or they may complete the form onsite at the end of the mediation session, if they prefer.

The second phase of this evaluation process occurs at a later time, between 3 and 6 months after the mediation session. The evaluation may be conducted in several ways to gather information:

- ◆ An instrument may be mailed out to all participants with a self-addressed, stamped envelope.

- ◆ A telephone survey may be conducted.
- ◆ A face-to-face interview may be conducted.

The survey or interview may be conducted by a volunteer or a staff member, but should not be conducted by the person who actually mediated the case.

An additional method for gathering information from victims is to sponsor focus groups composed of victims who are willing to discuss their experiences in mediation and offer input about the program and its practices.

**Mediator.** The mediator also needs to evaluate the mediation. A feedback instrument can be completed by the mediator immediately following the mediation session. Completing a self-evaluation helps the mediator develop observation, analysis, and self-reflection skills. The mediator's evaluation can also alert program staff to any issues or problems that may need further attention or suggest revisions in program procedures.

**Probation officer or victim service personnel.** Feedback needs to be gathered from probation officers or victim service personnel who work with the parties before, during, and after mediation. This may be accomplished through formal evaluation or informal feedback.

### **3. Develop and Maintain an Extensive and Effective Network**

A crucial component of any victim-offender mediation program is the cultivation of connections with stakeholders in the community. Stakeholders include judges and court referees who may make referrals to the program, victim service personnel who may refer cases or work with clients prior to or after mediation, prosecuting attorneys and public defenders who have an interest in the outcome

of the case and the status of the parties, and probation officers who may follow up with offenders. Establishing these relationships is vital to the continuous flow of appropriate referrals and the overall success of the program.

VOM can be used as a diversion from prosecution or after a formal admission of guilt has been accepted by the court, with mediation being a condition of probation (if the victim is interested). Because mediation represents a serious departure from the traditional handling of offenders, a concerted effort needs to be made to educate court-related personnel on the VOM process. They need information about the benefits and risks of mediation, the types of cases suitable for referral, specific outcomes of cases, research findings about the short- and long-term impact of mediation, safeguards and quality control procedures, and evaluation processes. Stakeholders will also want assurance about the credibility of the program itself and the training and competence of the mediators.

In addition to providing information to stakeholders, program staff may seek to strengthen the partnership by exploring avenues for collaboration. The training of mediators is a natural opportunity for collaboration. Victim service providers can present a training segment on the experience of victims. Portions of the training can be held in the office of victim services. Probation officers can provide a parallel segment on the experience of offenders. A judge can describe what happens to victims and offenders in the courtroom and offer information about what typically happens to a case that is not mediated. The presence of representatives of the judicial system also informs trainees that the system appreciates and supports mediation and values their contribution as volunteer mediators. Service providers may take the roles of victims



and offenders to demonstrate how a case progresses through the system from beginning to end. Such collaboration not only provides trainees with needed information but also builds relationships within the system that can help ensure the success of a mediation program.

Seeking support for victims and offenders throughout the VOM process provides another opportunity for collaboration. For example, a victim service provider may provide support to a victim throughout the entire mediation process and beyond, even attending the mediation session with the victim, if requested, in the role of a support person rather than as an active participant. Such support may help the victim understand and articulate his or her experiences and needs. Similarly, a social worker or probation officer may be helpful to an offender by encouraging the development of understanding and empathy for the victim and helping the offender prepare for dialogue with the victim.

Building connections within the larger community is also essential, because the community is a stakeholder in the VOM process. Crime has an impact that reaches into the community far beyond the immediate parties involved. Consequently, the community needs to be invested in the VOM process. The community can be a potential source of financial support for a mediation program. Many programs are also dependent on the community as a source of volunteers to serve as mediators. When the public is educated about VOM and becomes invested in it, victims, offenders, and their support persons may be more willing to participate in the process, and other community members may be more likely to volunteer to be mediators. In addition to general public education about mediation, specific connections should be made with community agencies, places of worship and religious organizations, business organizations,

and local and State governments, including those organizations that influence and determine legislation and public policy. Program leadership, in particular, needs to have a thorough understanding of the community's structure and resources.

Volunteer mediators may serve as a bridge to the wider community in promoting victim-offender mediation both in the community and in the court system. Also, they can bring diverse cultural perspectives to a program. Volunteers may at times be more effective spokespersons than program staff. Community members who serve as volunteer mediators, for instance, may speak enthusiastically about their experiences with the process, and victims and offenders who have found the mediation experience to be useful can serve as eloquent promoters of the program.

It is also critical for VOM programs to maintain close ties with other VOM programs and agencies providing mediation services to the community. These connections can offer much-needed ongoing support, resources, and consultation. In addition, staff from these programs may wish to share materials and trainers and to collaborate in areas of common concern, such as legislative initiatives.

#### **4. Maintain High-Quality Standards for Mediators**

**Screen applicants seeking training as a mediator.** The first step in creating a team of effective, competent mediators is a comprehensive application process. Prospective mediators should complete a form that requires submission of, among other things, professional and volunteer histories, reasons for choosing to become a mediator, and input about their personal style and value system. Applicants should be asked specific questions about any past victimization experiences they may

have had. It is important to assess applicants' feelings about victimization and whether their personal experiences might lead to behavior or attitudes that are predisposed to being judgmental or blaming.

Upon completion of the form, an interview may be conducted to screen further for appropriate applicants. Because attitude and perspective are vital to effectiveness as a mediator, the interview serves as a natural tool for assessing suitability.

**Use mediation training as an additional tool for screening mediators.**

Program staff must observe trainees during role plays. The nature of their skills and their styles as mediators will often surface during this training. Program staff should follow up on any concerns that arise during training by comediating cases with trainees and discussing pertinent issues. Trainees should also solicit input from coaches.

**Maintain quality control through a meaningful program staff-mediator relationship.** In addition to the quality of mediator training, program staff should maintain close contact with mediators actively involved in cases. Procedures need to be established that provide for this supervisory and supportive relationship. Relatively inexperienced mediators, in particular, may be expected to contact staff after each client contact and to meet with staff both prior to and immediately following the mediation session.

Staff also need to be available for consultation on any case, as requested by the mediator. With more complex cases, brainstorming/consultation sessions involving the mediator, program staff, and, perhaps, other experienced mediators should be arranged at the outset. To provide adequate supervision and

support, program staff should comediate a case annually with each mediator.

In the interest of quality, training sessions should be limited to a group of 9 to 12 participants. This ensures that trainees receive individual attention and that trainers have the opportunity to respond to the learning process of each individual. Trainees should be provided with ample opportunities for apprenticeship—namely, comediating with experienced mediators and staff. After such an apprenticeship, trainees can best learn by having frequent opportunities to mediate cases. Much that is gained through training and apprenticeship can be lost if not reinforced by repeated experience with actual cases. Also, mediators who are not called upon may lose interest in the program. Generally, the best strategy is to train a small number of mediators, use them frequently, maintain close contact with them, and provide them with all the resources they need. In addition, trainees should expect to communicate and collaborate with staff; complete evaluations; follow reporting requirements and timely case management and quality procedures; keep updated through continuing education; and make a time commitment (cases done carefully may take up to 15 hours or more). Some programs find that a smaller group of mediators working with more cases shows more commitment to the success of the program than a larger group of mediators working with fewer cases.

**Establish regular continuing education as a mechanism for strengthening skills.** Continuing education for mediators should be built around issues in the field, advanced skill development, needs expressed by mediators, and staff assessments. Case review can be a vital component in skill development and quality control. For example, mediators may meet quarterly with program staff to



present case scenarios that raise questions and concerns that have emerged from real cases.

### **5. Explore Opportunities for Broadening the Scope of Services**

**Develop a skills-training course for juvenile offenders and their parents.** Develop a course for juvenile offenders and their parents covering topics such as conflict management skills, empathy development, competence development, communication and life skills, esteem-building, anger management, and skills for building peer support.

**Improve mediators' ability to serve victims and offenders more effectively.** Train mediators to maintain a connection with victims and/or offenders for a specific period of time following the mediation, provide support for the victim, and serve as a mentor to the offender. Mediators may monitor agreements, accompany offenders on job search excursions, and offer encouragement and reminders about restitution obligations.

**Coordinate between the community and the offender to perform community service.** Establish a public works program that can serve as an arena for community service responsibilities and provide opportunities for staff to develop relationships with offenders and to monitor restitution efforts.

**Provide offender rehabilitation opportunities.** Provide offenders with job search assistance and actual job training. Establish a work-study program for offenders.

**Help offenders develop empathy for victims.** Develop victim impact panels and victim awareness classes to help offenders whose victims choose not to participate in mediation.

**Use mediation to foster positive family relationships when the offender leaves corrections.** Offer mediation to parents and children as juvenile offenders leave a correctional facility to return home.

## **Training Recommendations**

### **1. Maximize Experiential Learning by Enhancing Role Playing**

**Demonstrate a realistically performed role play.** Trainees need to visualize what is expected of them. The trainer may play the mediator role and experienced mediators or actual victims and offenders may play the other roles. The scenario should be planned out in terms of basic information and perhaps an issue or two that could arise, but it should not be scripted. Role players should seek authenticity and spontaneity.

**Arrange the role-play schedule so that each trainee experiences each of the roles.** Of course, it is critical that trainees try out the mediator role. They may, however, learn just as much by playing the victim and offender roles, which allow them to reflect on mediator techniques and strategies from the perspective of the participants.

**Coach trainees on how to play the roles.** The full value of the role-play exercise may be lost if trainees overplay or overdramatize the roles so that the experience bears no resemblance to reality. Instruct trainees to use what they have learned about the victim and offender experiences to play the roles; instructors might tell trainees to try to take on the actual feelings of the character they are playing—to feel what it is like to be a victim and how the victim would respond—and to play the role spontaneously without a script.



**Guide trainees in debriefing the role play.** Trainers can encourage peer review by structuring the debriefing after the role play. They can allow the trainee playing the mediator to begin by commenting first on what worked, what did not work, and what questions arose. Then, trainees in the victim or offender role can comment next on aspects that worked for them and others that did not and give the mediator feedback on the amount and kind of interventions used and their impact. The observing trainees should also provide feedback. The victim and offender role players can answer questions from the other trainees such as:

- ◆ Did you think that you were listened to? Did you have the chance to tell the full story?
- ◆ Did you feel respected?
- ◆ Did you feel that you had the power to make decisions?

**Use experienced mediators to coach role players.** An experienced mediator can act as a coach and provide a useful perspective on the victim-offender mediation process. If necessary, the coach can rotate between two groups. Clear instructions should be given regarding the coach's role. In general, it is best if coaches do not intervene unless requested to do so by the trainees—at a moment of impasse, for example. Following the role play, effective coaches seek to elicit information from participants by asking questions and, if necessary, frame their comments in terms of positive tips and possibilities for other ways of proceeding, rather than point out right and wrong methods. The participants learn more if they reflect on the process and its effects and brainstorm possibilities than if they are told explicitly what should have been done.

**Videotape role plays involving trainees.** Trainees may find videotapes of themselves

in the mediator role to be quite useful. Videotapes may be studied by participants to observe and reflect upon their own actions. Videotapes may also be used in a one-on-one coaching situation. In addition, clips of exemplary practices by trainees may be shown to the entire training group.

**Design role plays to address specific problem areas.** As trainees advance toward more complex role-play scenarios, issues known to challenge many mediators—such as intercultural tensions, agreements deemed unfair or unrealistic by the mediator, controlling or out-of-control parents, and other elements that may lead to impasse—can be built into the scenario.

**Use input from victims and offenders in creating role plays.** Use actual victim-offender mediation participants to critique role-play scenarios or ask a victim or offender to create a role play. A juvenile offender's input may add realistic issues of adolescent culture to a scenario.

**Use actual current cases as the basis for role plays.** Trainers should consider designing individualized role plays that portray the actual case a trainee will unknowingly receive as his or her first case.

**Role play atypical portions of the mediation process.** For a change of pace, trainees may be invited into the hallway one by one to role play greeting the participants as they arrive for the mediation session.

## **2. Use a Multidimensional Format To Enhance Learning**

**Incorporate into training the personal experiences, perspectives, and knowledge of trainees.** Trainers should always seek to build into training a number of opportunities for interaction. Trainees should be asked what they know about



the judicial system and what they might do differently if they were designing a system. Self-reflection about personal responses to conflict should be encouraged. Trainees need to consider their experiences of victimization: how they felt, what responses of others they found helpful, and what they needed to do to move on with their lives. Similarly, trainees should reflect on their experiences of having offended or caused pain to others.

**Consider onsite observations by trainees.** Trainees should be given the opportunity to observe the court process, including the roles of victims and offenders in that setting. Also, trainees should witness actual mediations before they attend training, in the middle of training (thus splitting the training into two segments), or immediately following training. A visit to a jail or a correctional facility may also be relevant.

**Make training as realistic as possible.** Trainers should invite actual victims and offenders who have participated in mediation to speak to trainees. Representatives of victim services, probation, and the judiciary can add important and accurate information to the training. A panel of adolescents can educate trainees in adolescent culture and strategies for working with youth. Trainers should illustrate important points by describing actual cases and use material for exercises drawn directly from real cases.

**Vary the training format.** For each skill or process segment addressed, trainers should present the material briefly; demonstrate the skill or process; distribute a worksheet, if relevant; allow for individual, paired, or group practice; role play; debrief as a group and with a coach; and have interaction between the trainer and trainees. Use stories, written exercises, case studies, guest speakers,

individual reflection, onsite observations, modeling, videotapes, overheads, charts, and other learning aids.

**Vary the pace of training.** Alternate quiet reflective modules with interactive or active modules. Provide generous opportunities for questions at certain points in the schedule and, at other times, make it clear that a move to the next topic is necessary.

**Incorporate experiential learning whenever possible.** In addition to role plays and practice exercises targeting specific skills, trainers should allow trainees to experience other dimensions of the mediation process. For example, trainees may pair up to experiment with “zingers”—inappropriate, hurtful responses—discovering for themselves how it feels to be ignored, interrupted, and judged. A brief demonstration or role play scripted to be mishandled can prove to be a useful tool for trainees to experience the impact of destructive practices. Trainees may also explore “quick decisions” (e.g., what to do if the offender’s parent threatens to leave, if the offender will not talk, if the victim is willing to forgo any monetary restitution).

**Make the training manual user friendly.** The manual can be developed with handouts that are distributed in conjunction with each topic, so that trainees are not overwhelmed with material. Manuals should be accessible and helpful to trainees.

**Be current and creative, be fresh and interesting, be engaging.** Trainings should be dynamic rather than static. Program staff need to be alert to repetitious patterns that become tedious for the trainer. Material needs to excite and challenge the trainer. Trainees need to know the trainer’s journey with mediation and the impact of this work on his

or her life. The trainer needs to take time to “check the pulse” of the audience members throughout the training program: Are their needs being met? Is their attention being held? Does the trainer need to “switch gears”? New material infuses new life into the training. For example, movie clips or newspaper articles portraying conflict scenarios can be used to develop conflict skills.

### **3. Assist Trainees in Enhancing the Potential of the Preparation Phase**

**Encourage trainees to consider the use of outside support persons to help prepare the participants for mediation.** A victim service provider may help victims determine issues of concern to them. A probation officer may help the offender try to understand the victim’s perspective and prepare a tentative script reflecting ideas the offender may wish to express.

**Develop materials that trainers can use when preparing for mediation.** Some materials or activities that offenders and victims may find helpful as they prepare for mediation include a videotape describing the mediation process; a self-guided workbook for use by victims and offenders that helps them think about their experiences and the impact of those experiences on themselves and others; and a questionnaire that helps victims organize their thoughts about what they wish to express or accomplish during the mediation session.

**Explore with trainees methods for seeking to increase victim and offender participation and interaction.** Victims and offenders need to be encouraged to discover and sort out thoughts, feelings, and questions that arise in conjunction with the mediation process. Mediators may offer to role play with victims or offenders to help them understand reactions, needs, and ideas that may be

evoked and to prepare them for these responses should they arise during mediation. It may be useful, in advance of the mediation session, for mediators to provide offenders with questions typically asked by victims or actual questions raised by victims in each particular case, so that the offenders can be prepared to address the needs of the victims.

### **Guide trainees in how to help offenders and victims determine their goals.**

It is helpful if the parties are directly asked to consider what they would like to occur during the mediation session. A walk-through or a role play of the session may be useful in preparing trainees to help participants establish personal goals for the mediation.



## **IV. Summary**

The guidelines offered in this monograph are grounded in more than 20 years of practical experience in the field of victim-offender mediation in North America, numerous conversations with individual victim advocates and staff members of victim advocacy organizations, and the results of the recently completed national survey of victim-offender mediation programs in the United States (appendix A). The number of VOM programs is increasing in communities throughout the country, and these guidelines will help lead to the development of the highest quality victim-sensitive mediation services possible. Considerable room, however, remains for continued experimentation in this emerging field.

These guidelines are flexible and should be adjusted to fit the cultural context of each community and the specific needs of the participating victims, offenders, and support people. The development of programs must offer a safe place for dialogue between the victim and offender that can lead to a sense of accountability and restoration for all involved.





## Appendix A. Results of Survey of Victim-Offender Mediation Programs in the United States

1. Person completing survey: \_\_\_\_\_
2. Position of person completing survey: \_\_\_\_\_
3. Date of survey completion: \_\_\_\_\_
4. Name of your agency: \_\_\_\_\_
5. Type of agency: \_\_\_\_\_

| Agency                            | Number of Programs* | Percentage of Total Responses (N=115) |
|-----------------------------------|---------------------|---------------------------------------|
| a. Probation                      | 10                  | 9                                     |
| b. Victim services                | 4                   | 3                                     |
| c. Private community-based        | 4                   | 4                                     |
| d. Prosecuting attorney           | 5                   | 4                                     |
| e. Police                         | 2                   | 2                                     |
| f. Residential treatment facility | 2                   | 2                                     |
| g. Correctional facility          | 3                   | 8                                     |
| h. Church-based                   | 26                  | 23                                    |
| i. Other                          |                     |                                       |
| State/county                      | 4                   | 3                                     |
| Court services                    | 2                   | 2                                     |
| Juvenile offender services        | 2                   | 2                                     |

\* Not all respondents answered this question, so total number of responses (115) does not equal total number of respondents (116).

6. What is the primary source of funding for the VOM program?

| Source                      | Number of Responses* | Percentage of Total Responses (N=160) |
|-----------------------------|----------------------|---------------------------------------|
| a. Local government         | 43                   | 27                                    |
| b. State government         | 39                   | 24                                    |
| c. Federal Government       | 10                   | 6                                     |
| d. Foundations              | 20                   | 12                                    |
| e. Individual contributions | 15                   | 9                                     |
| f. Churches                 | 16                   | 10                                    |
| g. Other                    |                      |                                       |
| Fundraising/grants          | 4                    | 3                                     |
| United Way                  | 2                    | 6                                     |
| Miscellaneous fees          | 4                    | 3                                     |

\* Respondents could indicate more than 1 source, so total number of responses (160) is greater than total number of respondents (116).

Please complete the following information based upon information from the most recent year. Please indicate if the data are not available.

7. How many full-time employees does your VOM program have?

Mean: 2.3 employees                      Range: 1–13 employees

8. How many mediators participate in your VOM program?

|            | Mean | Range   |
|------------|------|---------|
| Staff      | 2    | 1–14    |
| Volunteers | 37   | 1–1,000 |

9. What is the current annual budget of the VOM program?

Mean: \$55,077                      Range: \$1–\$413,671

10. How many cases were referred to victim-offender mediation during the most recent year?

N=116  
Juvenile cases                      Mean: 136                      Range: 1–900  
Adult cases                      Mean: 74                      Range: 1–1,672

11. What percentage of referrals are felonies?

N=116  
Mean: 33 percent                      Range: 1–100 percent

What percentage of referrals are misdemeanors?

N=116  
Mean: 67 percent                      Range: 1–100 percent

12. Who is the primary referral source of cases?

| Referral Source       | Number of Responses* | Percentage of Total Responses (N=148) |
|-----------------------|----------------------|---------------------------------------|
| a. Probation officers | 43                   | 29                                    |
| b. Judges             | 34                   | 23                                    |
| c. Police officers    | 15                   | 10                                    |
| d. Prosecutors        | 23                   | 15                                    |
| e. Defense attorneys  | 10                   | 7                                     |
| f. Victim advocates   | 1                    | 1                                     |
| g. Community members  | 3                    | 2                                     |
| h. Juvenile diversion | 19                   | 13                                    |

\* Respondents could indicate more than 1 referral source, so total number of responses (148) is greater than total number of respondents (116).



13. Is offender participation in the mediation program voluntary?

a. Yes      Number: 82      Percentage: 78.8  
b. No      Number: 22      Percentage: 21.2

14. Can offenders back out of the mediation program at any time?

a. Yes      Number: 87      Percentage: 82.1  
b. No      Number: 19      Percentage: 17.9

15. Is victim participation in the mediation program voluntary?

a. Yes      Number: 106      Percentage: 100  
b. No      Number: 0      Percentage: 0

16. Can victims back out of the mediation program at any time?

a. Yes      Number: 105      Percentage: 99.1  
b. No      Number: 1      Percentage: 0.9

17. At what point(s) in the justice process is victim-offender mediation done?

| Point in Justice Process                 | Number of Responses* | Percentage of Total Responses (N=207) |
|--|----------------------|---------------------------------------|
| a. Diversion                             | 71                   | 34                                    |
| b. Post-adjudication but pre-disposition | 57                   | 28                                    |
| c. Post-disposition                      | 57                   | 28                                    |
| d. Other                                 |                      |                                       |
| At various points                        | 5                    | 2                                     |
| At any point                             | 10                   | 5                                     |
| Prior to court                           | 7                    | 3                                     |

\* Respondents could indicate more than 1 point, so total number of responses (207) is greater than total number of respondents (116)

18. How many of the referred/closed cases during the year were actually mediated?

N=116  
Mean: 106 cases      Range: 1-771 cases

19. How many mediations resulted in written agreements?

N=116  
Mean: 92 mediations      Range: 1-720 mediations

20. How many of the above agreements were successfully completed?

Mean: 91 agreements      Range: 1-720 agreements

21. What are the three most common offenses that are referred to victim-offender mediation (please list the most common first)?

a. \_\_\_\_\_ b. \_\_\_\_\_ c. \_\_\_\_\_

22. Do you ever conduct mediations for any of the following severely violent crimes?

| Offense                         | Number of Responses* | Percentage of Total Responses (N=141) |
|---------------------------------|----------------------|---------------------------------------|
| a. Assault with a deadly weapon | 25                   | 18                                    |
| b. Assault with bodily injury   | 47                   | 33                                    |
| c. Sexual assault by stranger   | 8                    | 6                                     |
| d. Sexual assault within family | 10                   | 7                                     |
| e. Domestic violence            | 12                   | 8                                     |
| f. Negligent homicide           | 15                   | 11                                    |
| g. Attempted murder             | 5                    | 3                                     |
| h. Murder                       | 8                    | 6                                     |
| i. Other                        | 11                   | 8                                     |

\* Respondents could indicate more than 1 option, so total number of responses (141) is greater than total number of respondents (116).

23. What are the three most important tasks of the mediator(s) during the mediation session?

| Task   | Number of Responses* | Percentage of Total Responses (N=320) |
|--|----------------------|---------------------------------------|
| a. Providing leadership  | 12                   | 4                                     |
| b. Making the parties feel comfortable and safe                                    | 75                   | 23                                    |
| c. Actively paraphrasing the comments made by the parties                          | 6                    | 2                                     |
| d. Actively listening to both parties  | 36                   | 11                                    |
| e. Reframing the statements of the parties   | 14                   | 4                                     |
| f. Actively and efficiently moving the parties toward a written agreement          | 19                   | 6                                     |
| g. Facilitating a dialogue between the victim and offender                         | 90                   | 28                                    |
| h. Assisting the parties in negotiating a mutually acceptable plan for restitution | 39                   | 12                                    |
| i. Controlling the amount of feelings and emotions that are expressed              | 1                    | 1                                     |
| j. Getting out of the way so the parties can talk directly to each other           | 20                   | 6                                     |
| k. Other   | 8                    | 3                                     |

\* Respondents could indicate more than 1 task, so total number of responses (320) is greater than total number of respondents (116).

Mediator Training Information

24. How many hours of classroom training do mediators initially receive?

Mean: 31 hours

Range: 1–89 hours



25. In how many cases, if any, are trainees required to participate with an experienced mediator, as a period of apprenticeship, prior to completing their initial training?

Mean: 4 cases

Range: 1–24 cases

26. Does your training include a specific component on understanding the experience and needs of crime victims?

a. Yes      Number: 93      Percentage: 79.5

b. No      Number: 23      Percentage: 20.5

27. If yes, how much time do you spend on the topic of crime victims?

Mean: 3.7 hours

Range: 1–40 hours

28. If yes, does this include specific information about the crisis response of victims and possible trauma?

a. Yes      Number: 78      Percentage: 76.5

b. No      Number: 24      Percentage: 23.5

29. If yes, does this include specific information about crisis intervention techniques and local referral sources?

a. Yes      Number: 70      Percentage: 68.0

b. No      Number: 33      Percentage: 32.0

30. If yes, does this include specific information about the rights of crime victims in your State?

a. Yes      Number: 57      Percentage: 56.4

b. No      Number: 44      Percentage: 43.6

31. Does your training of mediators include a guest speaker from a local victim assistance program or agency?

a. Yes      Number: 45      Percentage: 38.5

b. No      Number: 71      Percentage: 61.5

Name of the program/agency: \_\_\_\_\_

32. Do you invite crime victims to tell their story during the training session for mediators?

a. Yes      Number: 29      Percentage: 25.0

b. No      Number: 87      Percentage: 75.0

33. If yes, are these victims ever former clients who went through mediation?

a. Yes      Number: 19      Percentage: 59.4

b. No      Number: 13      Percentage: 40.6

34. Does your training include a specific component on understanding the experience and needs of offenders?

a. Yes      Number: 87      Percentage: 75.0

b. No      Number: 29      Percentage: 25.0

35. If yes, how much time do you spend on the topic of understanding offenders?

Mean: 3 hours

Range: 1–12 hours

36. Does your training of mediators include a guest speaker from a local program or agency that works with offenders?

a. Yes      Number: 93      Percentage: 79.5

|        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 25 | Percentage: 79.5 |
| b. No  | Number: 23 | Percentage: 20.5 |

Name of program/agency: \_\_\_\_\_

37. Are one or more offenders ever invited to tell their story during the training session for mediators?

a. Yes      Number: 20      Percentage: 18.0

|       |            |                  |
|-------|------------|------------------|
| b. No | Number: 91 | Percentage: 82.0 |
|-------|------------|------------------|

38. If yes, are these offenders ever former clients who went through mediation?

a. Yes      Number: 15      Percentage: 75.0

|       |           |                  |
|-------|-----------|------------------|
| b. No | Number: 5 | Percentage: 25.0 |
|-------|-----------|------------------|

### What other topics are addressed during training?

| Topic   | Number Answering Yes | Percentage of Programs (N=116) That Include This Topic |
|---|----------------------|--|
| 39. Y N Restorative justice                             | 103                  | 88   |
| 40. Y N History of victim-offender mediation            | 100                  | 86   |
| 41. Y N Victim-offender mediation concept and process   | 113                  | 97   |
| 42. Y N Understanding conflict                          | 111                  | 95   |
| 43. Y N Communication skills                            | 114                  | 98   |
| 44. Y N Preparation for mediation skills                | 110                  | 94   |
| 45. Y N Mediation skills                                | 114                  | 98   |
| 46. Y N Followup VOM meetings                           | 69                   | 59   |
| 47. Y N Risks and benefits of victim-offender mediation | 110                  | 94   |
| 48. Y N VOM research                                    | 70                   | 60   |
| 49. Y N Culture and gender issues in mediation          | 95                   | 81   |
| 50. Y N Case assessment skills                          | 83                   | 71   |
| 51. Y N Followup support for victims and offenders      | 59                   | 50   |
| 52. Y N Referral sources for victims and offenders      | 78                   | 67   |
| 53. Y N Other   | 64                   | 55   |

54. Approximately how many hours of role playing do you do in training?

Mean: 11 hours

Range: 1–35 hours



55. What parts of the process do you role play in training?

| Process Element                                    | Number of Responses* | Percentage of Programs (N=116) |
|--|----------------------|--------------------------------|
| a. Calling the offender                            | 57                   | 49                             |
| b. Meeting the offender in a pre-mediation session | 61                   | 53                             |
| c. Calling the victim                              | 58                   | 50                             |
| d. Meeting the victim in a pre-mediation session   | 63                   | 54                             |
| e. Mediation session                               | 107                  | 92                             |
| f. Followup mediation session                      | 10                   | 9                              |
| g. Other   | 8                    | 7                              |

\*Respondents could indicate more than 1 source, so total number of responses (364) is greater than total number of respondents (116)

56. Are your mediators trained in comediation?

- |        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 91 | Percentage: 78.5 |
| b. No  | Number: 25 | Percentage: 21.4 |

57a. If yes, why do you use comediators? What are the benefits?

57b. If no, why don't you use comediators?

58. What do you find to be the most helpful training techniques? Please be very specific.

59. What do you find to be the least helpful training techniques? Please be very specific.

60. Are there specific handouts, manuals, or videotapes that you have found particularly helpful in training? Please be specific.

61. Do you believe that your victim-offender mediation training is sufficiently sensitive to understanding the experience and needs of crime victims?

- |        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 74 | Percentage: 69.8 |
| b. No  | Number: 32 | Percentage: 30.2 |

62. Do you believe that your victim-offender mediation training is sufficiently sensitive to understanding the experience and needs of offenders?

- |        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 82 | Percentage: 76.6 |
| b. No  | Number: 25 | Percentage: 23.4 |

63. Do you think victim-offender mediators should be required to receive certification of completion of a legislatively mandated number of hours of VOM training?

- |        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 40 | Percentage: 38.8 |
| b. No  | Number: 63 | Percentage: 61.2 |

64. If yes, how many hours of training should be required?
- Mean: 35 hours                      Range: 1–197 hours
65. If no, how many hours of training would be considered appropriate?
66. Do you think that advanced training should be required before mediators work with cases of severe violence such as sexual assault, attempted homicide, murder?
- |        |             |                 |
|--------|-------------|-----------------|
| a. Yes | Number: 112 | Percentage: 100 |
| b. No  | Number: 0   | Percentage: 0   |

Case Preparation Information

67. Does someone call the victim and offender prior to the mediation?
- |        |             |                  |
|--------|-------------|------------------|
| a. Yes | Number: 114 | Percentage: 99.1 |
| b. No  | Number: 1   | Percentage: 0.9  |
68. If yes, who does this?
- |              |            |                  |
|--------------|------------|------------------|
| Mediator     | Number: 55 | Percentage: 49.1 |
| Intake staff | Number: 59 | Percentage: 50.9 |
69. Does someone meet with the victim and offender separately prior to the mediation?
- |        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 88 | Percentage: 77.9 |
| b. No  | Number: 25 | Percentage: 22.1 |
70. If yes, who does this?
- |              |            |                |
|--------------|------------|----------------|
| Mediator     | Number: 72 | Percentage: 82 |
| Intake staff | Number: 16 | Percentage: 18 |

Mediation Process Information

71. Where are mediations typically held?

| Location                         | Number of Responses* | Percentage of Programs (N=116) |
|----------------------------------|----------------------|--------------------------------|
| a. Program office                | 83                   | 72                             |
| b. Conference room in library    | 49                   | 42                             |
| c. Neighborhood/community center | 51                   | 44                             |
| d. Home of victim                | 20                   | 17                             |
| e. Courtroom                     | 21                   | 18                             |
| f. Church/synagogue/temple       | 45                   | 39                             |
| g. Other                         | 55                   | 47                             |

\* Respondents could indicate more than 1 location, so total number of responses (324) is greater than total number of respondents (116).



72. Who chooses where the mediation will be held?

|                      | Number of Responses | Percentage of Programs (N=116) |
|----------------------|---------------------|--------------------------------|
| a. Victim            | 13                  | 11                             |
| b. Offender          | 0                   | 0                              |
| c. Mediator          | 18                  | 16                             |
| d. Quasi-restorative | 47                  | 41                             |
| e. Other             | 38                  | 33                             |

73. If you use comediators, how often?

|                 | Number of Responses | Percentage of Total Responses (N=115) |
|-----------------|---------------------|---------------------------------------|
| a. Routinely    | 81                  | 70                                    |
| b. Occasionally | 26                  | 23                                    |
| c. Never        | 8                   | 7                                     |

74. Do the victim and offender sit across from each other during the mediation, allowing for direct eye contact?

- a. Yes      Number: 97      Percentage: 94.2  
b. No      Number: 6      Percentage: 5.8

If no, what type of seating arrangement do you use? \_\_\_\_\_

75. After the opening statement by the mediator, who typically begins telling his or her story first?

|                    | Number of Responses | Percentage of Total Responses (N=114) |
|--------------------|---------------------|---------------------------------------|
| a. Victim          | 60                  | 53                                    |
| b. Offender        | 38                  | 33                                    |
| c. Varies, depends | 16                  | 14                                    |

76. Who decides which party begins?

|                        | Number of Responses | Percentage of Total Responses (N=116) |
|------------------------|---------------------|---------------------------------------|
| a. Victim              | 14                  | 12                                    |
| b. Offender            | 0                   | 0                                     |
| c. Mediator            | 62                  | 53                                    |
| d. Program             | 23                  | 20                                    |
| e. Victim and offender | 8                   | 7                                     |
| f. Varies              | 9                   | 8                                     |

**Mediation Outcome Information**

77. What is the primary goal of your victim-offender mediation program?

78. What are the three most important outcomes of the mediation session for the involved parties?

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

Comments: \_\_\_\_\_

79. Has your program been evaluated at some level?

a. Yes            Number: 87            Percentage: 75.7

b. No            Number: 28            Percentage: 24.3

If yes, please enclose either a copy of the full evaluation or a summary of it.

80. In what ways do you feel your program is sensitive to the needs of victims?

80a. What could be done to make your program more sensitive to the needs of victims?

81. In what ways do you feel your program is sensitive to the needs of offenders?

81a. Do you have ideas of things that could be done to make your program more sensitive to the needs of offenders?

82. Is there anything else you would like to say about your program, the training of mediators, mediation outcomes, etc.?

83. Do you know of any other victim-offender mediation programs that might not be listed in the national VOMA *Directory*, particularly newer programs?



84. Are offenders required to admit their guilt prior to participation?

- |        |            |                  |
|--------|------------|------------------|
| a. Yes | Number: 75 | Percentage: 65.2 |
| b. No  | Number: 40 | Percentage: 34.8 |

85. Are parents of the juvenile offenders present during the mediation session?

|                 | Number of Responses | Percentage of Total Responses (N=116) |
|-----------------|---------------------|---------------------------------------|
| a. Always       | 60                  | 52                                    |
| b. Sometimes    | 32                  | 27                                    |
| c. Occasionally | 15                  | 13                                    |
| d. Never        | 9                   | 8                                     |

86. Are other participants present during the mediation session?

|                 | Number of Responses | Percentage of Total Responses (N=116) |
|-----------------|---------------------|---------------------------------------|
| a. Always       | 60                  | 52                                    |
| b. Sometimes    | 32                  | 27                                    |
| c. Occasionally | 15                  | 13                                    |
| d. Never        | 9                   | 8                                     |

Who are the other participants?

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Thanks for taking the time to respond to this survey!

*Please enclose a copy of your (1) mediator training agenda; (2) recent annual report; (3) program flyer; (4) newsletter; (5) evaluation reports.*

The survey and other program materials should be mailed to:

Jean Greenwood, Center for Restorative Justice & Peacemaking  
 School of Social Work, University of Minnesota  
 105 Peters Hall, 1404 Gortner Avenue  
 St. Paul, MN 55108  
 612-624-4923





## Appendix B. What Is Humanistic Mediation?

### “Creating a Safe, if not Sacred, Place for Dialogue”

Mark S. Umbreit, Ph.D.

Center for Restorative Justice & Peacemaking

Humanistic mediation represents a “dialogue-driven” rather than a “settlement-driven” form of conflict resolution. It focuses on the importance of meeting with the parties individually and in-person prior to the joint mediation session to listen to their story, build rapport, explain the process, and prepare them for engagement in a mediated dialogue. It is a nondirective style of mediation in which the parties are primarily speaking to each other with minimal intervention by the mediator. The mediator maintains an attitude of unconditional positive regard and concern for all parties while remaining impartial (i.e., not taking sides).

The mediator works to create a safe, if not sacred, place to foster direct dialogue among the parties about the emotional and material impacts of the conflict. Written settlement agreements often result from, but are not central to, the process. Humanistic mediation is a specific practice application of the broader theory of transformative mediation. Humanistic mediation emphasizes healing and peacemaking over problem solving and resolution. The telling and hearing of each other’s stories about the conflict, the opportunity for maximum direct communication with each other, and the importance of honoring silence and the innate wisdom and strength of the participants are all central to humanistic mediation practice. Humanistic mediation has been applied in many settings including community mediation, victim-offender mediation, workplace mediation, family mediation, and peer mediation in schools.

#### Key Elements of Humanistic Mediation

1. Continual centering of the mediator.  
*Being fully present—separating biases from the mediation process.*
2. Deep compassionate listening—importance of storytelling.  
*“Just listen.”*
3. Separate, in-person, premediation meetings.
4. Connecting with parties, but remaining impartial.
5. Creation of safe, if not sacred, space.
6. Dialogue-driven meeting.
7. Nondirective style of mediation.
8. Mediator “gets out of the way.”

#### Key Elements of Creating a Safe, if not Sacred, Place for Dialogue

1. Nonjudgmental attitude:  
—Demonstrating unconditional positive regard for all parties.

2. Preparation of the parties:
  - Listening to their stories and needs.
  - Explaining the process so there are no surprises.
  - Preparing for the dialogue.
  - Acting as a guardian of the process.
3. Presentation of choices:
  - Deciding when to meet.
  - Selecting where to meet.
  - Determining who should be present.
4. Centering of mediator:
  - Deep belly breathing, meditation, or prayer.
  - Separating “our stuff” from “their stuff.”
  - Caring deeply for all but remaining impartial.
5. Setting the tone:
  - Eliminating distractions.
  - Playing soothing background music as people gather.
  - Beginning with a moment of silence or prayer (if meaningful to all parties).

### **Potential Blocks (for Some Victims and Offenders) to Creating a Safe Place for Dialogue**

1. Touch:
  - Holding hands.
  - Touch in any form.
  - Hugging.
2. Religious ritual:
  - Using a specific religious ritual or prayer from a dominant religion.
  - Using a specific religious ritual or prayer from an indigenous or non-Western tradition.
3. Language:
  - Reference to spirituality and religion.
  - “Spiritual” as synonymous with “religious.”
  - Language that communicates judgment.
4. Assumptions:
  - “My understanding of spirituality or religion is shared by those present.”
  - “What makes me feel centered or safe works for others.”

### **For More Information**

School of Social Work, University of Minnesota  
105 Peters Hall, 1404 Gortner Avenue  
St. Paul, MN 55108-6160  
612-624-4923  
[ssw.che.umn.edu/rjp](http://ssw.che.umn.edu/rjp)



## **Resources**

Umbreit, M.S. (1997) "Beyond Settlement-Driven Mediation: A Humanistic Model of Peace-Making." *Canadian Mediation Interaction Network Journal* (Spring): 16-17.

Umbreit, M.S. (1997) "Humanistic Mediation: A Transformative Journey of Peace-Making." *Mediation Quarterly* 14(3): 201-213.

Umbreit, M.S. (1995) *Mediating Interpersonal Conflicts: A Pathway to Peace*. West Concord, MN: CPI Publishing.





## Appendix C. Profiles of Programs

The following seven programs were selected as representative of established programs, large and small, operating in a variety of settings. In addition to basic program information, the descriptions include special program features. Additional information was drawn from responses to the following telephone interview questions: "In what ways do you think your program is currently sensitive to the needs of victims?" and "What are your ideas of things that could be done to make your program more sensitive to the needs of victims?"

### **Fresno, California**

**Victim-Offender Reconciliation Program (VORP) of the Central Valley, Inc.**

**Ron Claassen, Program Director**

**1717 South Chestnut Avenue**

**Fresno, CA 93702**

**209-251-1549**

#### **Overview**

The Fresno program conducted its first victim-offender meeting in 1983. Mediations are conducted at several points in the justice process—diversion, post-adjudication but pre-disposition, and post-disposition—as part of the informal probation diversion and at post-adjudication as part of disposition. The New Community Justice Conference Process replaces arraignment, adjudication, and disposition (except for acceptance of agreement as a restorative justice sentence). Of the cases referred in 1996, 55 percent were mediated, and agreements were written in 95 percent of those cases.

**Type of Agency:** A church-based 501C-3 with board members representing a wide range of communities and churches.

**Primary Sources of Funding:** Churches, businesses, and individual contributions.

**Staff:** 6.

**Volunteers:** 250.

**Current Annual Budget:** \$100,000.

**Juvenile Cases Referred in 1996:** 598.

**Adult Cases Referred in 1996:** 30.

**Percentage of Referrals That Are Felonies:** 25.

**Percentage of Referrals That Are Misdemeanors:** 75.

**Primary Source of Referrals:** Probation officers.

**Most Common Offenses Referred:** Vandalism, theft, battery.

**Serious Offenses Mediated:** Assault with a deadly weapon, assault with bodily injury, involuntary manslaughter, rape.

#### **Special Features**

- ◆ Continuing education training of mediators includes victim service providers and crime victims who have participated in mediations as guest speakers.
- ◆ Experienced volunteer mediators are used in training to coach role-play groups and to assist them in debriefing after the process.

- ◆ Mediators work with juvenile offenders to help them understand the mediation experience, supporting them through a process that they typically find much more difficult than treatment or incarceration. Offenders comment, “I get it now—it made me think about the victim. [Previously] I didn’t think about the victim’s wants—I just thought about me.”
- ◆ When possible, the program helps offenders find jobs to earn money to pay restitution.
- ◆ The mediation session includes recognizing the injustice (victims and offenders are invited to restate or summarize what the other party has said); restoring equity (restitution of many forms); and clarifying future intentions (preferably including family members who can encourage the offender and hold him or her accountable).
- ◆ Additional participants may be present during the mediation session, such as representatives of the school system, the community, and the faith community.
- ◆ The VORP community justice conference includes the offender; the offender’s immediate and extended family, teacher, and faith community representative; the victim; the victim’s support persons and faith community representative; the probation officer; the police officer; and the VORP mediator as leader.

### **Practices To Heighten Sensitivity**

- ◆ Devote time as needed to listening to the victims.
- ◆ On the first visit with victims, let them know that they are being heard and understood and validate their experience.
- ◆ Ensure that the entire mediation process allows the victims to be heard and validated.
- ◆ Consult first with victims regarding the site for mediation.
- ◆ Conduct followup meetings as needed to complete the agreement.

## **Orange, California**

**Victim-Offender Reconciliation Program**  
**Institute for Conflict Management**  
**Scott Mather, Director**  
**2525 North Grand, Suite N**  
**Santa Ana, CA 92705**

### **Overview**

The Orange County Victim-Offender Reconciliation Program began in 1989. Mediations are conducted at several points in the judicial process: prefiling from local law enforcement, diversion, and post-adjudication but pre-disposition. In 1996, approximately 50 percent of the referred cases were mediated. Of those cases mediated, 60 percent resulted in written agreements, and 95 percent of the agreements were completed successfully.

**Type of Agency:** Private community-based.

**Primary Source of Funding:** Local government.

**Staff:** 9.

**Volunteers:** 150.

**Current Annual Budget:** \$265,000.



**Juvenile Cases Referred in 1996:** 900.

**Adult Cases Referred in 1996:** 100.

**Percentage of Referrals That Are Felonies:** 0.

**Percentage of Referrals That Are Misdemeanors:** 100.

**Primary Sources of Referrals:** Probation officers, police officers, prosecutors, defense attorneys, victim advocates, community members.

**Most Common Offenses Referred:** Assault and battery, vandalism, petty theft

### **Special Features**

- ◆ Mediators receive 25 hours of classroom training, after which they observe two cases facilitated by an advanced mediator. They then are observed by an advanced mediator while comediating cases.
- ◆ Actual case experiences are presented during the training of mediators.
- ◆ Occasionally volunteer mediators use their own professional offices as sites for the mediation sessions.
- ◆ Intake staff contact the victim first to confirm basic data before the mediator calls.
- ◆ Plans are being made for volunteers to conduct face-to-face followup interviews with participants 4 to 6 weeks after the mediation.
- ◆ Staff members work closely with a lobbyist to secure legislation that supports victim-offender mediation.

### **Practices To Heighten Sensitivity to Victims**

- ◆ Meet the offender first, before contacting victims.
- ◆ Provide victims with some degree of control over the process.
- ◆ Offer victims the opportunity to speak first in the mediation session and to ask questions.
- ◆ Make sure the process addresses victims' needs.

## **Elkhart, Indiana**

### **Victim-Offender Reconciliation Program**

**Center for Community Justice**

**Trysha Miller, Coordinator**

**Jolene VonGunten, Coordinator**

**121 South Third Street**

**Elkhart, IN 46516**

**219-295-6149**

### **Overview**

The Elkhart Victim-Offender Reconciliation Program was established in 1978 as the first U.S. replication of a model developed in Kitchener, Ontario, in 1974. Mediations are conducted at the following stages in the justice process: diversion, post-adjudication but pre-disposition, and post-disposition. Of the cases referred in 1996, 26 percent were mediated. Written agreements were reached in 100 percent of those cases, and 95 percent of the agreements were successfully completed.

**Type of Agency:** Private community-based.

**Primary Sources of Funding:** Local government, foundations.

**Staff:** 2.

**Volunteers:** 15.

**Current Annual Budget:** \$110,000.

**Juvenile Cases Referred in 1996:** 330.

**Adult Cases Referred in 1996:** 50.

**Percentage of Referrals That Are Felonies:** 70.

**Percentage of Referrals That Are Misdemeanors:** 30.

**Primary Sources of Referrals:** Probation officers, judges, prosecutors.

**Most Common Offenses Referred:** Theft, burglary, auto theft.

**Serious Offenses Mediated:** Assault with a deadly weapon, assault with bodily injury.

### **Special Features**

- ◆ The victim assistance Victim-Offender Reconciliation Program makes initial contact with the victim before mediation is explored as an option.
- ◆ Guest speakers for training sessions include judges, probation officers, and representatives of the program.
- ◆ Assumptions about victims are discussed during training; stereotypes of vindictiveness of victims are challenged by sharing actual victim stories.
- ◆ In the training of mediators, emphasis is placed on the ways that victim-offender mediation differs from classical forms of mediation.
- ◆ Mediations are typically held in the program office to ensure safety, privacy, and confidentiality.

### **Practices To Heighten Sensitivity to Victims**

- ◆ Take time with each victim.
- ◆ Discuss various options with the victim.
- ◆ Inform the victim of his or her rights.
- ◆ Assist the victim in getting questions answered.
- ◆ Encourage offenders to consider what they might say to the victim—if they were the victim, what might they want to hear?

### **Des Moines, Iowa**

**Victim-Offender Reconciliation Program**

**Restorative Justice Center**

**Polk County Attorney**

**Teri Gillenwater, Program Coordinator**

**206 Sixth Avenue, Suite E**

**Des Moines, IA 50309**

**515-286-3737**



## **Overview**

The Victim-Offender Reconciliation Program of Polk County has been in operation since 1992. Mediations are conducted at diversion, post-adjudication but pre-disposition, and post-disposition stages in the justice process.

**Type of Agency:** Prosecuting attorney.

**Primary Source of Funding:** Local government.

**Staff:** 5.

**Volunteers:** 9.

**Current Annual Budget:** \$356,649 (includes community mediation program).

**Juvenile Cases Referred in 1996:** 20.

**Adult Cases Referred in 1996:** 1,300.

**Percentage of Referrals That Are Felonies:** 20.

**Percentage of Referrals That Are Misdemeanors:** 80.

**Primary Sources of Referrals:** Judges, prosecutors, defense attorneys.

**Most Common Offenses Referred:** Theft, assault, drunk driving, criminal mischief.

**Serious Offenses Mediated:** Assault with a deadly weapon, assault with bodily injury, negligent homicide.

## **Special Features**

- ◆ Mediators, known as “facilitators,” are trained in victim sensitivity by Polk County Victim Services personnel and by crime victims who make up a victim impact panel. Trainees occasionally visit a local prison.
- ◆ Training consists of 30 hours of basic mediation training, followed by 10 hours specific to victim-offender mediation. Mediators then observe cases for 2 to 3 months before they are prepared to conduct the sessions themselves.
- ◆ Before mediators are considered for victim-offender mediation training, they must have 6 to 12 months of intensive experience conducting community mediations.
- ◆ All mediators are paid a modest stipend.
- ◆ If intake staff become aware of additional issues or needs of participants, they may offer to contact victim services, probation, or other agencies to obtain immediate assistance for the parties.
- ◆ During the final evaluations, probation officers ask offenders what they believe will most help them avoid reoffending. Offenders who have experienced mediation often respond, “The one thing that helped me see what crime really does, was meeting the victim; I had no idea I hurt an individual.”

## **Practices To Heighten Sensitivity to Victims**

- ◆ Provide victims of all crimes with an advocate who offers support through the victim-offender mediation process and is present at the mediation session.
- ◆ Prepare victims thoroughly for the victim-offender mediation process.
- ◆ Work closely with victim services.
- ◆ Provide the safest place possible for the mediation, making sure it is secure.

- ◆ Additional ideas to enhance victim sensitivity: spend ample time with victims before the mediation; develop educational videotapes to describe the program; provide community education using victim impact panels; spend time with judges and county attorneys and have them observe a mediation.

## **Caledonia, Minnesota**

### **Houston County Mediation and Victim Services**

**Houston County Courthouse**

**Julie Thompson, Director**

**Houston County Courthouse, Room 210**

**304 South Marshall Street**

**Caledonia, MN 55921**

**507-724-5831**

### **Overview**

The victim-offender mediation program in Houston County has been in operation since 1994. In this program, mediations are done as diversions, at pre-disposition, and at post-disposition. Approximately 45 percent of the cases referred in 1996 were mediated. Of those mediated, 95 percent resulted in a written agreement, and 100 percent of those agreements were successfully completed.

**Type of Agency:** Victim services.

**Primary Source of Funding:** State government.

**Staff:** 3.

**Volunteers:** 10.

**Current Annual Budget:** \$30,000.

**Juvenile and Adult Cases Referred in 1996:** 122.

**Percentage of Referrals That Are Felonies:** 1.

**Percentage of Referrals That Are Misdemeanors:** 99.

**Primary Source of Referrals:** Prosecutors.

**Most Common Offenses Referred:** Criminal damage to property, theft, tampering with a motor vehicle.

### **Special Features**

- ◆ Mediators receive 40 hours of classroom training followed by observation and then comediate at least five sessions.
- ◆ Victim advocates and crime victims are invited to speak during the training sessions for mediators.
- ◆ Because the program is used by the county court system, parties are occasionally sent directly from the courthouse and mediation is done at that time.
- ◆ The program has added a family group conferencing component that is used when a case involves a significant impact on a neighborhood and on the community.

### **Practices To Heighten Sensitivity to Victims**

- ◆ Explore victims' questions.
- ◆ Never try to talk a victim into participating in mediation.



- ◆ When it is helpful, reframe what the victim is saying.
- ◆ Learn by listening.
- ◆ Encourage victims to be empowered. "As victim advocates, we have learned through this process that having someone in your corner (who takes over for the victim) is not always the best for the victim. How do victims heal? By taking their power back, by claiming some control. Victims face their fear and tremendous sense of loss. If you can put a face to it and can process it, this helps victims come to terms with the fear, so that it doesn't own them" (Program Director).

## **Stillwater, Minnesota**

**Victim-Offender Conferencing Program**  
**Community Justice Program**  
**Washington County Court Services**  
**Carolyn McLeod, Coordinator**  
**14900 61st Street, Fifth Floor**  
**P.O. Box 6**  
**Stillwater, MN 55082-0006**  
**612-430-6948**

### **Overview**

The Washington County Community Justice Program is a relatively new program, begun in 1995. The Victim-Offender Conferencing Program conducts conferences at both diversion and post-disposition stages in the justice process. Approximately 70 percent of the cases referred in 1996 were mediated. Of those mediated, 99 percent resulted in written agreements, and 99 percent of the agreements were successfully completed.

**Type of Agency:** Probation.

**Primary Source of Funding:** Local government.

**Staff:** 1.

**Volunteers:** 52 (43 community volunteers, 9 probation officers).

**Current Annual Budget:** \$66,000.

**Juvenile Cases Referred in 1996:** 175.

**Adult Cases Referred in 1996:** 25.

**Percentage of Referrals That Are Felonies:** 60.

**Percentage of Referrals That Are Misdemeanors:** 40.

**Primary Sources of Referrals:** Probation officers, judges, prosecutors, victim advocates.

**Most Common Offenses Referred:** Burglary/theft, assault, harassment, damage to property.

**Serious Offenses Mediated:** Assault with bodily injury, negligent homicide, vehicular homicide.

### **Special Features**

- ◆ Mediators are given 24-30 hours of classroom training, which includes drills and role plays, followed by apprenticeship on as many as three cases. During training, participants are given a folder with information on a mock case that they use in role playing. Mediators are also trained to facilitate small group and large group conferences.

- ◆ Training of mediators includes guest speakers from the Victim-Witness Advocate Program, Probation Department, and the Youth Services Bureau. In addition, criminal justice and law enforcement professionals participate in a play depicting the experiences of victims and offenders in the current justice system.
- ◆ Additional ongoing training is provided for mediators on communication skills, community resources, diversity training, and victim sensitivity.
- ◆ Probation officers team with community volunteers to mediate cases beyond their caseloads. Juvenile probation officers mediate adult cases, and officers working with adult probation mediate in juvenile cases. Probation officers do not mediate cases in their own communities.
- ◆ In addition to victim-offender conferencing between individual parties, small group conferences are also conducted. These conferences may include siblings, interested parties, and primary and secondary victims as participants. Large group conferences offer a restorative process to large numbers of participants—even entire communities. Self-selected panels represent the entire group, and attendees have the opportunity to provide written input.
- ◆ The Community Justice Program sponsors community forums on restorative justice and other issues of concern to specific neighborhoods and facilitates dialogue within schools to deal with issues such as racial and ethnic tensions.

### **Practices To Heighten Sensitivity to Victims**

- ◆ Meet with victims at their request and convenience.
- ◆ Listen.
- ◆ Provide structure and a safe environment.
- ◆ Assist with referrals for other kinds of help participants may want.
- ◆ Follow up on agreements and notify victims of their completion.
- ◆ Provide training and ongoing education on victim sensitivity.
- ◆ Additional ideas that would enhance victim sensitivity: make 1-week and 2-month followup telephone contacts with victims.

## **Eugene, Oregon**

**Lane County Restorative Justice Program**  
**Community Mediation Services**  
**Beverly Moore, Program Manager**  
**44 West Broadway, Suite 202**  
**Eugene, OR 97401**  
**541-344-5366**

### **Overview**

The Lane County Restorative Justice Program has been in operation since 1994, but dispute resolution services have been provided by the center since 1981. Victim-offender mediations are done as a diversion from the justice process. Of the cases referred to the program in 1996, 74 percent were mediated. Of those mediated, 100 percent resulted in written agreements that were successfully completed in 80 percent of the cases.



**Type of Agency:** Nonprofit community.

**Primary Source of Funding:** County government.

**Staff:** 2.

**Volunteers:** 15.

**Current Annual Budget:** \$26,000.

**Juvenile Cases Referred in 1996:** 146.

**Adult Cases Referred in 1996:** 0.

**Percentage of Referrals That Are Felonies:** 25–40.

**Percentage of Referrals That Are Misdemeanors:** 60–75.

**Primary Source of Referrals:** Juvenile intake counselors.

**Most Common Offenses Referred:** Burglary I, criminal mischief, unauthorized use of a motor vehicle.

### **Special Features**

- ◆ Training of mediators involves 30 hours of basic mediation training and 15 hours in the Restorative Justice Program. Following classroom work, trainees complete two observations with a supervisor/mediator, after which they comediate sessions if the supervisor assesses they are ready.
- ◆ Guest speakers during training include juvenile counselors from the Department of Youth Services and victims and offenders who have participated in the program.
- ◆ Classroom training of mediators includes a component on communicating with victims—what to say and what not to say.
- ◆ In cases when the victim does not wish to mediate, the program explores the possibility that the offender could meet with a victim panel instead. In addition, mediators may work with the offender to construct a plan (“offender-only restitution agreement”) or conduct shuttle negotiations between the parties.
- ◆ Evaluations are conducted by volunteers from the Department of Youth Services.

### **Practices To Heighten Sensitivity to Victims**

- ◆ Listen to victims.
- ◆ Provide input into the criminal justice process.
- ◆ Encourage victims to tell their story first, if they so choose.
- ◆ Offer the opportunity to process victims’ experiences with staff to desensitize or debrief the victim on what has happened.
- ◆ Additional ideas to enhance victim sensitivity: training on victimology.





## **Appendix D. Promising Practices**

### **Program Innovations**

#### **Placer Dispute Resolution Service, Lincoln, California**

- ◆ The goals of mediation are included in the agreement: recognition of injustice, some kind of restitution, and plans for the future, such as how the parties will treat each other.
- ◆ As part of the sentence, the offender pays \$40 for mediation.

#### **Oakland Victim-Offender Reconciliation Program, Oakland, California**

- ◆ If the initial introductory letter does not reach the parties, intake staff try to locate the parties by telephoning or driving to their homes.
- ◆ Approximately 25–40 hours of volunteer time are devoted to each case, with mediators spending 2–3 hours with each party separately and meeting with the comediator for an hour before and after the mediation session. In tough cases, mediators meet with staff to brainstorm ideas and then debrief with staff following the mediation.

#### **Victim-Offender Reconciliation Program, San Luis Obispo, California**

- ◆ A 36-hour course is being developed for offenders and their parents that covers the following topics: conflict management, empathy, communication, self-esteem building, and skills development for peer support.

#### **Larimer County Youth Service Bureau/Victim-Offender Mediation Program, Fort Collins, Colorado**

- ◆ In addition to mediation, a broad spectrum of services is provided for offenders, including jail screening, host homes, electronic home monitoring, public works programs, training in conflict resolution skills, and recreation.

#### **Woodford County Victim-Offender Reconciliation Program, Eureka, Illinois**

- ◆ Mediations are occasionally held near the site where the crime was committed to enhance realism and impact.

#### **Victim-Offender Reconciliation Program, Bloomington, Indiana**

- ◆ Offenders are given the victim's questions in advance to assist them in preparing for the mediation.
- ◆ Conflict resolution training is conducted in a local detention center using a juvenile ex-offender as cotrainer.

#### **Victim-Offender Reconciliation Program, Lafayette, Indiana**

- ◆ Mediators are trained to avoid using the word "don't" in their ground rules because the effect may be demeaning to the parties. Instead, mediators model respect and frame the goals carefully, affirming the parties' choice to speak honestly and work together to

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see what can be done about the situation. If the conversation becomes disrespectful, the mediator, without judgment, stops the process and asks the parties how they feel and offers feedback if they have a personal reaction to what is happening, such as "That would make it hard for me to listen."

#### **Center for Creative Justice, Ames, Iowa**

- ◆ If the victim chooses not to participate, the offender sends a letter of apology.
- ◆ The offender pays a fee to participate in mediation.

#### **Victim-Offender Mediation Program, Davenport, Iowa**

- ◆ Important qualifications for mediators include a certain attitude and perspective.

#### **Victim-Offender Reconciliation Program, Hutchinson, Kansas**

- ◆ Victims are notified by telephone as soon as the restitution agreement is fulfilled.

#### **Offender-Victim Ministries, Newton, Kansas**

- ◆ Teenage offenders are provided with information about drugs, mental health issues, and so on.
- ◆ In response to a high volume of shoplifting in the area, this program developed a "mini-VORP" to be used with shoplifters. The juvenile offender develops a relationship with a mentor and writes and delivers a letter of apology as part of the program.

#### **Mid-Michigan Dispute Resolution Center, Saginaw, Michigan**

- ◆ When offenders are young and somewhat inarticulate, probation officers work with them before mediation to develop a tentative script of what they might wish to express.

#### **Dakota County Community Corrections, Apple Valley, Minnesota**

- ◆ The program uses the term "meeting" instead of "mediation" to avoid the possible impression that the parties are involved in a dispute rather than a crime.

#### **Victim-Offender Interactive Conferences, Rochester, Minnesota**

- ◆ Mediators offer to role play the mediation session with offenders to help them prepare for the kinds of questions victims often ask.

#### **Monroe County Community Mediation Program, Rochester, New York**

- ◆ Mediations are conducted at the program office, where staff are available to draft an agreement on the spot and provide copies of the completed agreement.

#### **Orange County Dispute Settlement Center, Carrboro, North Carolina**

- ◆ The goals of mediation are framed as "gaining understanding" and "being able to move on," which are considered more realistic than "making things right."
  - ◆ An advisory council, assisting the board of directors in its work, is composed of victims, offenders, and youth workers.
-



### **One Step Further, Greensboro, North Carolina**

- ◆ Offenders are given job training and attend a life-skills class. The program also plans to provide a work-study program following the mediation process.

### **Crime Victim Services, Lima, Ohio**

- ◆ Mediations are held at the site of the crime whenever possible to make it more real to the parties and "help victims take their power back."

### **Victim-Offender Reconciliation Program of Linn County, Albany, Oregon**

- ◆ A program on victimization is provided for juvenile offenders and their parents. Victim impact panels are used for cases in which victims choose not to mediate. Offenders also attend assault class, which teaches them effective ways to deal with anger.

### **Lancaster Area Victim-Offender Reconciliation Program, Lancaster, Pennsylvania**

- ◆ A desired outcome of mediation is that the parties achieve a "sense of understanding."

### **Victim-Offender Reconciliation Program, Sioux Falls, South Dakota**

- ◆ One of the goals of mediation, as it is framed in this program, is to assist the victim in finding "some measure of peace."

### **Mediation and Restitution Reconciliation Services, Memphis, Tennessee**

- ◆ Mediation is part of a three-phase program for youthful offenders that includes recreational activities, relationship-building with adults through program-supervised community service, and ultimately housing facilities.

### **Victim-Offender Reconciliation Program of Anderson County, Oak Ridge, Tennessee**

- ◆ Victims' names are added to the program's mailing list. Some victims have sent in contributions to support the operating expenses of the program.

### **Travis County Juvenile Court, Austin, Texas**

- ◆ Juvenile offenders, averaging 15 years of age, are trained as mediators and cofacilitate cases.

### **Dispute Mediation Services, Dallas, Texas**

- ◆ Volunteers are used to promote the program by speaking to juvenile court personnel about their experiences as mediators in the process.
- ◆ Mediation programs are funded through a \$10 surcharge on civil court filing fees.
- ◆ Victims and offenders are given self-guided workbooks that assist them in preparing for the mediation session. The workbook invites participants to reflect on their experiences and the impact of the crime and to consider thoughts they would like to share and questions they would like to ask.

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### **Northwest Institute for Restorative Justice, Victim-Offender Mediation Program, Seattle, Washington**

- ◆ Victims and offenders determine the goals of the mediation session.
- ◆ Mediations are conducted in schools in cases where there is ambiguity about whether the parties are victims or offenders. The cases are initiated prior to any charges being filed or an admission of guilt being recorded, and the labels “victim” and “offender” are dropped to assist the peacemaking effort.

### **Victim-Offender Reconciliation Program, LaCrosse, Wisconsin**

- ◆ An advisory board for the program consists of representatives from court administration, health care, the media, victim/witness services, probation and parole, diversion, and the police. The program was developed by this advisory board.
- ◆ Volunteer mediators keep office hours at the program office.
- ◆ The program has found that by reducing the number of volunteers and providing them with more cases, the level of commitment on the part of volunteer mediators has increased and cases are completed more promptly.

### **Victim-Offender Mediation Program, Manitowoc, Wisconsin**

- ◆ Advocacy and support services are provided for victims, even when they choose not to participate in mediation.
- ◆ Mediators follow up with juvenile offenders by monitoring restitution efforts, taking offenders on job search excursions, encouraging and reminding them to fulfill their agreements, and meeting with them when they bring restitution payments into the office.

### **Youth and Family Project, Port Washington, Wisconsin**

- ◆ Forums are conducted with victims to get their input about the process and their experiences.

### **Mediation Center of Waukesha County, Waukesha, Wisconsin**

- ◆ In the mediation session, parents of the offender are seated by the mediator to avoid having “too many eyes staring at the victim.”
- ◆ In discussing possible outcomes of mediation with the parties, mediators are careful not to “oversell” the process, for example, by pretending that there will be closure.

## **Training Ideas**

### **Victim-Offender Mediation Project, Anchorage, Alaska**

- ◆ Mediators are trained to know the community’s resources and structure and to understand how the program and the use of volunteers relate to community building.

### **Arizona Attorney General’s Office, Phoenix, Arizona**

- ◆ Training is designed as follows: short lecture on a small segment of the process, group practice, and role play.
-



**Placer Dispute Resolution Service, Lincoln, California**

- ◆ Local high school freshmen who are committed to helping their peers find a better way to settle disputes are trained as mediators and serve on a panel of three, facilitating mediations.

**Victim-Offender Reconciliation Program, San Luis Obispo, California**

- ◆ Training explores systemic and societal inequities that underlie anger.

**Victim-Offender Reconciliation Program, Alamosa, Colorado**

- ◆ An offender helps with role plays by playing the part of the offender.

**Victim-Offender Reconciliation Program of Boulder County, Boulder, Colorado**

- ◆ To help mediators understand their own responses to conflict, the training explores with trainees how conflict was handled at home when they were growing up.

**Victim-Offender Reconciliation Program of McLean County, Inc., Bloomington, Illinois**

- ◆ One component of mediator training seeks to help mediators recognize their own needs and their own style of communication.

**Victim-Offender Mediation Program of Davenport, Iowa**

- ◆ Each skill taught in training is reinforced through use of worksheets, verbal practice, interaction with the trainer, and role play.

**Offender-Victim Ministries, Newton, Kansas**

- ◆ Trainees are invited to reflect on their own experiences of victimization and what others have said that was helpful or less than helpful. They also reflect on their experiences of offending.

**Dakota County Community Corrections, Apple Valley, Minnesota**

- ◆ During mediation training, a probation officer and a judge participate in a skit illustrating the offender's movement through the system.

**Victim-Offender Mediation Program, Coon Rapids, Minnesota**

- ◆ Efforts have been made over a period of years to cultivate a healthy working relationship with the county's victim services program, including suggestions that joint training be conducted and that portions of the mediation training be held in the offices of the victim services unit.
- ◆ Training of mediators includes a segment on juvenile culture.

**Restorative Justice Program, Woodbury, Minnesota**

- ◆ To enhance the effectiveness of role playing, participants are shown how to be realistic in their portrayal of victim and offender behavior.

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### **Orange County Dispute Settlement Center, Carrboro, North Carolina**

- ◆ Experienced mediators attend training sessions to discuss their mediation experiences.

### **Community Dispute Resolution Center, Ashland, Oregon**

- ◆ A panel of young people speaks during mediation training to educate mediators about adolescent issues and perspectives.

### **Lancaster Area Victim-Offender Reconciliation Program, Lancaster, Pennsylvania**

- ◆ Role plays are designed with “kinks” that elicit discussion about particular issues mediators find challenging. Examples would be scenarios in which a youthful offender chooses not to participate in mediation, but the parents insist; a restitution amount is deemed unrealistic or unfair by the mediator; or cultural tensions are present.
- ◆ Mediators are trained and encouraged through supervision to provide timely contact with the parties and followup on court proceedings and referrals that is efficient, dependable, and accurate.

### **Victim-Offender Reconciliation Program of Southeast South Dakota, Sioux Falls, South Dakota**

- ◆ The trainer participates in the role plays to “level the playing field” between trainer and trainee and to give the trainer a better sense of where mediators might have difficulties.

### **Mediation and Restitution Reconciliation Services, Memphis, Tennessee**

- ◆ During mediation training, participants unknowingly receive the actual case for role playing that they will be given to mediate.

### **Victim-Offender Reconciliation Program of Anderson County, Oak Ridge, Tennessee**

- ◆ During training each participant is videotaped as mediator in a role play. The tapes are then available to be checked out for viewing.
- ◆ Community members are brought in to play the roles of victim, offender, and parent in the role plays.
- ◆ Trainees are given information about the victim experience and then urged not to pre-judge what might be important to a particular victim.

### **Dispute Mediation Service, Dallas, Texas**

- ◆ Excerpts from movies and newspapers are used in training to explore the nature of conflict and what could be done differently in a given scenario.
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**Victim-Offender Mediation Programs for Victims and Offenders, Seattle, Washington**

- ◆ Speakers from the judiciary are included in mediation training so that trainees realize that the system appreciates and supports mediation.
- ◆ Trainees are given the opportunity to participate in an exercise that simulates greeting the victim and offender in the hallway prior to the mediation session.

**Victim-Offender Reconciliation Program, LaCrosse, Wisconsin**

- ◆ As part of the training, mediators attend court proceedings to observe victims and offenders in the actual court process.





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# Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue

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